

AMENDED IN SENATE JULY 23, 1998

AMENDED IN SENATE JUNE 16, 1998

AMENDED IN ASSEMBLY APRIL 14, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2802

**Introduced by Committee on Consumer Protection,
Governmental Efficiency and Economic Development
(Davis (Chair), Alquist, Figueroa, Machado, Morrissey,
Napolitano, Runner, Strom-Martin, Takasugi, and
Wildman)**

March 12, 1998

An act to amend Sections ~~101, 130, 144~~ 130, 472.5, 2639, 2640, 2655.11, 2655.91, 2661.7, 2665, 2688, 2760.1, 2762, 2984, 3452, 6980.28, 7215.6, 7410, 7411, 7413, 7417, 7503.14, 7558.5, 7560, 7582.26, 7585.20, 7586.2, 7586.5, 7587.8, 7593.12, 7598.7, 7602, 7606, 7607, 7608, 7610, 7616.2, 7618, 7619.2, 7621, ~~7622.3~~, 7625, 7626, 7626.5, 7628, 7629, 7631, 7632, 7634, 7635, 7640, 7641, 7642, 7643, 7646, 7647, 7647.5, 7650, ~~7651~~, 7661, 7662, 7664, 7665, 7666, 7667, 7668, 7669, 7670, 7685.2, 7685.3, 7686, 7686.5, 7687, 7690, 7693, 7696, 7697, 7700, 7701, 7702, 7704, 7706, 7708, 7709, 7711, 7715, 7718.5, 7725, 7725.2, 7725.5, 7727, 7735, 7737.3, 7737.5, 7740, 7740.5, 8556, 9604, 9605, 9630, 9631, 9650, 9650.1, 9650.2, 9650.3, 9650.4, 9651, 9652, 9652.1, 9653, 9654, 9655, 9656, 9656.1, 9656.2, 9656.3, 9656.4, 9656.5, 9657, 9658, 9659, 9662, 9675, 9676, 9677, 9678, 9679, 9680, 9681, 9682, 9683, 9684, 9686, 9700, 9700.5, 9700.6, 9701, 9702.1, 9702.2, 9702.5, 9703, 9704, 9705, 9709, 9710, 9711, 9712, 9713, 9714, 9715, 9716, 9717, 9718, 9719, 9720, 9726,

9727, 9727.1, 9727.2, 9728, 9729, 9730, 9731, 9735, 9736, 9737, 9740, 9741, 9742, ~~9745~~, 9746, 9749.5, 9751, 9752, 9753, 9754, 9755, 9756, 9758, 9759, 9760, 9761, 9762, 9763, 9764, 9765, 9766, 9767, 9769, 9780, 9781, 9782, 9783, 9784, 9785, 9786, 9787, 9789, 9880.2, 9884, 9884.3, 9886.2, and 9889.8 of, to amend the heading of Article 2 (commencing with Section 7615) of Chapter 12 of Division 3 of, to add Sections 142, 7601, 9625, 9656.45, and 9884.5 to, to repeal Sections 7412, 7431.5, 7603, 7604, 7605, 7607.5, 7663, 7687.5, 9626, 9626.5, 9627, 9628, 9629, 9630.5, and 18740 of, to repeal Article 10 (commencing with Section 9889.30) of Chapter 20.3 of Division 3 of, and to repeal and add Section 9603 of, the Business and Professions Code, and to amend Section 15633.5 of the Welfare and Institutions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2802, as amended, Committee on Consumer Protection, Governmental Efficiency and Economic Development. Professions and vocations.

Existing law provides for the licensure, regulation, and discipline of various professions and vocations. These provisions are administered by boards and examining committees established within the Department of Consumer Affairs.

This bill would ~~eliminate references to~~ *change the names of* the Board of Funeral Directors and Embalmers and the Cemetery Board ~~and instead refer~~ to the Funeral Directors and Embalmers Program and the Cemetery Program, *respectively, each* to be administered by the Department of Consumer Affairs.

This bill would authorize each bureau and program under the direct authority of the Director of Consumer Affairs to synchronize the renewal dates of licenses granted to applicants with more than one license issued by the bureau or program. It would also establish a standard “abandonment date” for applications that have been returned to the applicant as incomplete, and would abolish grace periods during which no fees are assessed in connection with the renewal of licenses.

This bill would change the name of the Arbitration Review Program to the Arbitration Certification Program.

This bill would prohibit a registered nurse from petitioning to reinstate a license that has been revoked while the nurse is subject to an order of registration as a sex offender, rather than as a mentally disordered sex offender.

This bill would require that hearing aid dispensers who renew their licenses after their expiration, pay a delinquency fee.

This bill would revise certain provisions dealing with the process for appealing citations issued for violation of the Barbering and Cosmetology Program's rules and regulations.

This bill would revise provisions relating to the registration of private patrol operators and alarm company employees. This bill would require private patrol operators, and officers and employees thereof, to wear a uniform that is distinctive, and that includes a department approved patch on each shoulder and a department approved badge or cloth patch on the upper left breast of the uniform. This bill would revise certain provisions relating to the grounds for disciplinary action against funeral directors and embalmers.

This bill would revise and add certain registration provisions for automotive repair dealers. This bill would delete the requirement that the State Athletic Commission issue performance cards to all boxers who fight in California.

This bill would add the Division of Investigation to those agencies authorized to be given information relevant to an incident of elder or dependent adult abuse.

This bill would extend the sunset date of the Board of Guide Dogs for the Blind from January 1, 1999, to July 1, 2002, and would delete an obsolete reference to a related pilot project.

This bill would increase the renewal periods for licenses and registrations issued by the Bureau of Security and Investigative Services.

This bill would prescribe certain standards pursuant to which the department may hold and manage conserved cemetery trust funds.

This bill would make additional technical and conforming changes.

This bill would incorporate additional changes in Sections 7685.2 and 9741 of the Business and Professions Code, proposed by AB 1705, to be operative only if AB 1705 and this bill are both chaptered and become effective on January 1, 1999, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 101 of the Business and~~
2 ~~Professions Code is amended to read:~~
3 ~~101. The department is comprised of:~~
4 ~~(a) The Board of Dental Examiners of California.~~
5 ~~(b) The Medical Board of California.~~
6 ~~(c) The State Board of Optometry.~~
7 ~~(d) The California State Board of Pharmacy.~~
8 ~~(e) The Veterinary Medical Board.~~
9 ~~(f) The Board of Accountancy.~~
10 ~~(g) The California State Board of Architectural~~
11 ~~Examiners.~~
12 ~~(h) The State Board of Barbering and Cosmetology.~~
13 ~~(i) The Board for Professional Engineers and Land~~
14 ~~Surveyors.~~
15 ~~(j) The Contractors' State License Board.~~
16 ~~(k) The Funeral Directors and Embalmers Program.~~
17 ~~(l) The Structural Pest Control Board.~~
18 ~~(m) The Bureau of Home Furnishings and Thermal~~
19 ~~Insulation.~~
20 ~~(n) The Board of Registered Nursing.~~
21 ~~(o) The Board of Behavioral Science Examiners.~~
22 ~~(p) The State Athletic Commission.~~
23 ~~(q) The Cemetery Program.~~
24 ~~(r) The State Board of Guide Dogs for the Blind.~~
25 ~~(s) The Bureau of Security and Investigative Services.~~
26 ~~(t) The Court Reporters Board of California.~~
27 ~~(u) The Board of Vocational Nursing and Psychiatric~~
28 ~~Technicians.~~
29 ~~(v) The California State Board of Landscape~~
30 ~~Architects.~~

1 ~~(w) The Bureau of Electronic and Appliance Repair.~~
2 ~~(x) The Division of Investigation.~~
3 ~~(y) The Bureau of Automotive Repair.~~
4 ~~(z) The State Board of Registration for Geologists and~~
5 ~~Geophysicists.~~
6 ~~(aa) The State Board of Nursing Home~~
7 ~~Administrators.~~
8 ~~(ab) The Respiratory Care Examining Committee.~~
9 ~~(ac) The Acupuncture Examining Committee.~~
10 ~~(ad) The Board of Psychology.~~
11 ~~(ae) The California Board of Podiatric Medicine.~~
12 ~~(af) The Physical Therapy Board.~~
13 ~~(ag) The Arbitration Review Program.~~
14 ~~(ah) The Committee on Dental Auxiliaries.~~
15 ~~(ai) The Hearing Aid Dispensers Examining~~
16 ~~Committee.~~
17 ~~(aj) The Physician Assistant Examining Committee.~~
18 ~~(ak) The Speech-Language Pathology and Audiology~~
19 ~~Board.~~
20 ~~(al) Any other boards, offices, or officers subject to its~~
21 ~~jurisdiction by law.~~

22 **SEC. 2.**

23 *SECTION 1.* Section 130 of the Business and
24 Professions Code is amended to read:

25 130. (a) Notwithstanding any other provision of law,
26 the term of office of any member of an agency designated
27 in subdivision (b) shall be for a term of four years expiring
28 on June 1.

29 (b) Subdivision (a) applies to the following boards or
30 committees:

- 31 (1) Medical Board of California.
- 32 (2) California Board of Podiatric Medicine.
- 33 (3) Physical Therapy Examining Committee.
- 34 (4) Board of Registered Nursing.
- 35 (5) Board of Vocational Nursing and Psychiatric
- 36 Technicians.
- 37 (6) State Board of Optometry.
- 38 (7) California State Board of Pharmacy.
- 39 (8) Veterinary Medical Board.
- 40 (9) California Board of Architectural Examiners.

- 1 (10) California State Board of Landscape Architects.
- 2 (11) State Board of Barbering and Cosmetology.
- 3 (12) Board for Professional Engineers and Land
- 4 Surveyors.
- 5 (13) Contractors' State License Board.
- 6 (14) State Board of Guide Dogs for the Blind.
- 7 (15) Funeral Directors and Embalmers Program.
- 8 (16) Board of Behavioral Science Examiners.
- 9 (17) Structural Pest Control Board.
- 10 (18) Cemetery Program.
- 11 (19) Bureau of Electronic and Appliance Repair
- 12 Advisory Board.
- 13 (20) Court Reporters Board of California.
- 14 (21) State Board of Registration for Geologists and
- 15 Geophysicists.
- 16 (22) State Athletic Commission.
- 17 (23) Osteopathic Medical Board of California.
- 18 (24) The Respiratory Care Board of California.
- 19 (25) The Acupuncture Examining Committee.
- 20 (26) The Board of Psychology.
- 21 ~~SEC. 2.5.~~
- 22 *SEC. 2.* Section 142 is added to the Business and
- 23 Professions Code, to read:
- 24 142. This section shall apply to the bureaus and
- 25 programs under the direct authority of the director, and
- 26 to any board that, with the prior approval of the director,
- 27 elects to have the department administer one or more of
- 28 the licensing services set forth in this section.
- 29 (a) Notwithstanding any other provision of law, each
- 30 bureau and program may synchronize the renewal dates
- 31 of licenses granted to applicants with more than one
- 32 license issued by the bureau or program. To the extent
- 33 practicable, fees shall be prorated or adjusted so that no
- 34 applicant shall be required to pay a greater or lesser fee
- 35 than he or she would have been required to pay if the
- 36 change in renewal dates had not occurred.
- 37 (b) Notwithstanding any other provision of law, the
- 38 abandonment date for an application that has been
- 39 returned to the applicant as incomplete shall be 12
- 40 months from the date of returning the application.

(c) Notwithstanding any other provision of law, a delinquency, penalty, or late fee shall be assessed if the renewal fee is not postmarked by the renewal expiration date.

~~SEC. 3. Section 144 of the Business and Professions Code is amended to read:~~

~~144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.~~

~~(b) Subdivision (a) applies to the following boards or committees:~~

- ~~(1) Board of Accountancy.~~
- ~~(2) State Athletic Commission.~~
- ~~(3) Board of Behavioral Sciences.~~
- ~~(4) Court Reporters Board of California.~~
- ~~(5) State Board of Guide Dogs for the Blind.~~
- ~~(6) California State Board of Pharmacy.~~
- ~~(7) Board of Registered Nursing.~~
- ~~(8) Veterinary Medical Board.~~
- ~~(9) Registered Veterinary Technician Examining Committee.~~
- ~~(10) Board of Vocational Nursing and Psychiatric Technicians.~~
- ~~(11) Respiratory Care Board.~~
- ~~(12) Hearing Aid Dispensers Examining Committee.~~
- ~~(13) Physical Therapy Board of California.~~
- ~~(14) Physician Assistant Examining Committee.~~
- ~~(15) Speech Language Pathology and Audiology Board.~~
- ~~(16) Medical Board of California.~~
- ~~(17) Board of Nursing Home Administrators.~~
- ~~(18) Board of Optometry.~~
- ~~(19) Acupuncture Committee.~~
- ~~(20) Cemetery Program.~~
- ~~(21) Funeral Director and Embalmer Program.~~

1 ~~(22) Bureau of Security and Investigative Services.~~

2 ~~(23) Division of Investigation.~~

3 ~~(24) Board of Psychology.~~

4 ~~SEC. 3.5.~~

5 SEC. 3. Section 472.5 of the Business and Professions
6 Code is amended to read:

7 472.5. The New Motor Vehicle Board in the
8 Department of Motor Vehicles shall, in accordance with
9 the procedures prescribed in this section, administer the
10 collection of fees for the purposes of fully funding the
11 administration of this chapter.

12 (a) Fees collected pursuant to this section shall be
13 deposited in the Certification Account in the Consumer
14 Affairs Fund and shall be available, upon appropriation
15 by the Legislature, exclusively to pay the expenses
16 incurred by the department in administering this chapter
17 and to pay the New Motor Vehicle Board as provided in
18 Section 3016 of the Vehicle Code. If, at the conclusion of
19 any fiscal year, the amount of fees collected exceeds the
20 amount of expenditures for that purpose during that fiscal
21 year, the surplus in the Certification Account shall be
22 carried over into the succeeding fiscal year.

23 (b) Beginning July 1, 1988, and on or before May 1 of
24 each calendar year thereafter, every manufacturer shall
25 file with the New Motor Vehicle Board a statement of the
26 number of motor vehicles sold, leased, or otherwise
27 distributed by or for the manufacturer in this state during
28 the preceding calendar year, and shall, upon written
29 notice delivered to the manufacturer by certified mail,
30 return receipt requested, pay to the New Motor Vehicle
31 Board a fee, not to exceed one dollar (\$1) for each motor
32 vehicle sold, leased, or distributed by or for the
33 manufacturer in this state during the preceding calendar
34 year. The total fee paid by each manufacturer shall be
35 rounded to the nearest dollar in the manner described in
36 Section 9559 of the Vehicle Code. Not more than one
37 dollar (\$1) shall be charged, collected, or received from
38 any one or more manufacturers pursuant to this
39 subdivision with respect to the same motor vehicle.

1 (c) (1) The fee required by subdivision (b) is due and
2 payable not later than 30 days after the manufacturer has
3 received notice of the amount due and is delinquent after
4 that time. A penalty of 10 percent of the amount
5 delinquent shall be added to that amount, if the
6 delinquency continues for more than 30 days.

7 (2) If a manufacturer fails to file the statement
8 required by subdivision (b) by the date specified, the
9 New Motor Vehicle Board shall assess the amount due
10 from the manufacturer by using as the number of motor
11 vehicles sold, leased, or otherwise distributed by or for the
12 manufacturer in this state during the preceding calendar
13 year the total number of new registrations of all motor
14 vehicles sold, leased, or otherwise distributed by or for the
15 manufacturer during the preceding calendar year.

16 (d) On or before February 1 of each year, the
17 department shall notify the New Motor Vehicle Board of
18 the dollar amount necessary to fully fund the program
19 established by this chapter during the following fiscal
20 year. The New Motor Vehicle Board shall use this
21 information in calculating the amounts of the fees to be
22 collected from manufacturers pursuant to this section.

23 (e) For purposes of this section, “motor vehicle”
24 means a new passenger or commercial motor vehicle of
25 a kind that is required to be registered under the Vehicle
26 Code, but the term does not include a motorcycle, a
27 motor home, or any vehicle whose gross weight exceeds
28 10,000 pounds.

29 (f) The New Motor Vehicle Board may adopt
30 regulations to implement this section. The regulations
31 shall include, at a minimum, a formula for calculating the
32 fee, established pursuant to subdivision (b), for each
33 motor vehicle and the total amount of fees to be collected
34 from each manufacturer.

35 (g) Any revenues already received by the Arbitration
36 Certification Program and deposited in the Vehicle
37 Inspection and Repair Fund for the 1991–92 fiscal year
38 that have not yet been spent shall be deposited into the
39 Certification Account in the Consumer Affairs Fund.

1 SEC. 4. Section 2639 of the Business and Professions
2 Code is amended to read:

3 2639. Every graduate of an approved physical
4 therapist education program who has filed a complete
5 application for licensure with the board for the first time
6 may, following receipt of a letter of authorization to
7 perform as a “physical therapist license applicant,”
8 perform as a physical therapist under the direct and
9 immediate supervision of a physical therapist licensed in
10 this state pending the results of the first licensing
11 examination administered for which he or she is eligible
12 following graduation from an approved physical therapist
13 education program. During this period the applicant shall
14 identify himself or herself only as a “physical therapist
15 license applicant.” If the applicant passes the
16 examination, the physical therapist license applicant
17 status shall remain in effect until a regular renewable
18 license is issued, or licensure is denied, by the board. If the
19 applicant fails the licensing examination, or if he or she
20 passes the examination but licensure is denied, the
21 applicant shall be prohibited from performing as a
22 physical therapist license applicant at any time in the
23 future.

24 A person shall not be considered a graduate unless he
25 or she has successfully completed all the clinical training
26 and internships required for graduation from the
27 program.

28 If the applicant fails to take the next succeeding
29 examination without due cause or fails to pass the
30 examination or receive a license, all privileges under this
31 section shall terminate upon notice by certified mail,
32 return receipt requested. An applicant may only qualify
33 once to perform as a physical therapist license applicant.

34 SEC. 5. Section 2640 of the Business and Professions
35 Code is amended to read:

36 2640. (a) If the board uses computer administered
37 testing for the administration of the licensing
38 examination, this section shall apply and Section 2639
39 shall not apply.

1 (b) Every graduate of an approved physical therapist
2 education program who has filed a complete application
3 for licensure with the board for the first time may,
4 following receipt of a letter of authorization to take the
5 licensing examination and perform as a “physical
6 therapist license applicant,” perform as a physical
7 therapist under the direct and immediate supervision of
8 a physical therapist licensed in this state, for 90 days
9 pending the results of the first licensing examination
10 administered. During this period, the applicant shall
11 identify himself or herself only as a “physical therapist
12 license applicant.” If the applicant passes the
13 examination, the physical therapist license applicant
14 status shall remain in effect until a regular renewable
15 license is issued, or licensure is denied, by the board.

16 (c) A person shall not be considered a graduate unless
17 he or she has successfully completed all the clinical
18 training and internships required for graduation from the
19 program.

20 (d) If the applicant fails to take the examination within
21 90 days or fails to pass the examination or receive a
22 license, all privileges under this section shall terminate.
23 An applicant may only qualify once to perform as a
24 physical therapist license applicant.

25 SEC. 6. Section 2655.11 of the Business and
26 Professions Code is amended to read:

27 2655.11. A person holding an approval as a physical
28 therapist assistant issued by the board may use the title
29 “physical therapist assistant” or “physical therapy
30 assistant” or the letters “P.T.A.” or any other words,
31 letters, or figures that indicate that the person is an
32 approved physical therapist assistant. No other person
33 shall be so designated or shall use the term “physical
34 therapist assistant” or “P.T.A.” The approval as a physical
35 therapist assistant shall not authorize the use of the prefix
36 “L.P.T.,” “R.P.T.,” “P.T.,” or “Dr.” or the title “physical
37 therapist,” “doctor,” or any suffix or affix indicating or
38 implying that the physical therapist assistant is a physical
39 therapist or a doctor.

1 SEC. 7. Section 2655.91 of the Business and
2 Professions Code is amended to read:

3 2655.91. Every graduate of an approved physical
4 therapist assistant education program who has filed a
5 complete physical therapist assistant application with the
6 board for the first time may, following receipt of a letter
7 of authorization to perform as a “physical therapist
8 assistant applicant” from the board, assist in the provision
9 of physical therapy under the direct and immediate
10 supervision of a licensed physical therapist pending the
11 results of the first examination administered for which he
12 or she is eligible following graduation from an approved
13 physical therapist assistant education program. If the
14 applicant passes the examination, the physical therapist
15 assistant applicant status shall remain in effect until a
16 regular renewable approval is issued, or approval is
17 denied, by the board. If the applicant fails the
18 examination, or if he or she passes the examination but
19 approval is denied, the applicant shall be prohibited from
20 performing as a physical therapist assistant applicant at
21 any time in the future.

22 During this period the applicant shall identify himself
23 or herself only as a “physical therapist assistant
24 applicant.”

25 If a person assisting in the provision of physical therapy
26 pursuant to this section fails to take the next succeeding
27 examination without due cause or fails to pass the
28 examination or receive approval, all privileges under this
29 section shall terminate upon notice by certified mail,
30 return receipt requested. An applicant may only qualify
31 once to perform as a physical therapist assistant applicant.

32 A student is not eligible to work as a physical therapist
33 assistant applicant until successful completion of the
34 clinical experience required for graduation from the
35 program.

36 SEC. 8. Section 2661.7 of the Business and Professions
37 Code is amended to read:

38 2661.7. (a) A person whose license or approval has
39 been revoked or suspended, or who has been placed on
40 probation, may petition the Physical Therapy Board of



1 California for reinstatement or modification of penalty,
2 including modification or termination of probation, after
3 a period of not less than the following minimum periods
4 has elapsed from the effective date of the decision
5 ordering that disciplinary action:

6 (1) At least three years for reinstatement of a license
7 or approval revoked for unprofessional conduct, except
8 that the board may, for good cause shown, specify in a
9 revocation order that a petition for reinstatement may be
10 filed after two years.

11 (2) At least two years for early termination of
12 probation of three years or more.

13 (3) At least one year for modification of a condition, or
14 reinstatement of a license or approval revoked for mental
15 or physical illness, or termination of probation of less than
16 three years.

17 (b) The petition shall state any facts as may be
18 required by the board. The petition shall be accompanied
19 by at least two verified recommendations from physical
20 therapists licensed by the board who have personal
21 knowledge of the activities of the petitioner since the
22 disciplinary penalty was imposed.

23 (c) The petition may be heard by the board. The board
24 may assign the petition to an administrative law judge
25 designated in Section 11371 of the Government Code.
26 After a hearing on the petition, the administrative law
27 judge shall provide a proposed decision to the committee
28 that shall be acted upon in accordance with the
29 Administrative Procedure Act.

30 (d) The board or the administrative law judge hearing
31 the petition, may consider all activities of the petitioner
32 since the disciplinary action was taken, the offense for
33 which the petitioner was disciplined, the petitioner's
34 activities during the time the license was in good
35 standing, and the petitioner's rehabilitative efforts,
36 general reputation for truth, and professional ability. The
37 hearing may be continued, as the administrative law
38 judge designated in Section 11371 of the Government
39 Code finds necessary.

(e) The administrative law judge designated in Section 11371 of the Government Code when hearing a petition for reinstating a license or approval, or modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the person. The board may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

(g) Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 9. Section 2665 of the Business and Professions Code is amended to read:

2665. Each diversion evaluation committee has the following duties and responsibilities:

(a) The evaluation of physical therapists and physical therapist assistants who request participation in the program and the consideration of any recommendations from professional consultants on the admission of applicants to the diversion program.

(b) The review and designation of treatment facilities to which physical therapists and physical therapist assistants in the diversion program may be referred.

(c) The receipt and review of information concerning physical therapists and physical therapist assistants participating in the program.

(d) Calling meetings as necessary to consider the requests of physical therapists and physical therapist assistants to participate in the diversion program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.

1 (e) The consideration of whether each participant in
2 the diversion program may with safety continue or
3 resume the practice of physical therapy.

4 (f) Setting forth in writing a treatment program for
5 each participant in the diversion program with
6 requirements for supervision and surveillance.

7 (g) Holding a general meeting at least twice a year,
8 which shall be open and public, to evaluate the diversion
9 program's progress, to prepare reports to be submitted to
10 the board, and to suggest proposals for changes in the
11 diversion program.

12 (h) For the purposes of Division 3.6 (commencing
13 with Section 810) of Title 1 of the Government Code, any
14 member of a diversion evaluation committee shall be
15 considered a public employee. No board or diversion
16 evaluation committee member, contractor, or agent
17 thereof, shall be liable for any civil damage because of acts
18 or omissions which may occur while acting in good faith
19 in a program established pursuant to this article.

20 SEC. 10. Section 2688 of the Business and Professions
21 Code, as added by Section 12 of Chapter 830 of the
22 Statutes of 1996, is amended to read:

23 2688. The amount of fees provided in connection with
24 licenses or approvals for the practice of physical therapy
25 is as follows:

26 (a) The application fee for a physical therapist's
27 license shall be established by the board at not more than
28 seventy-five dollars (\$75). The application fee for an
29 applicant under Section 2653 shall be established by the
30 committee at not more than one hundred twenty-five
31 dollars (\$125).

32 (b) The examination and reexamination fees for the
33 physical therapist examination, physical therapist
34 assistant examination, and the examination to
35 demonstrate knowledge of the rules and regulations
36 related to the practice of physical therapy shall be the
37 actual cost to the board of the development and writing
38 of, or purchase of the examination, and grading of each
39 written examination, plus the actual cost of administering
40 each examination.

1 (c) The initial license fee for a physical therapist
2 license shall be fixed by the examining board at not more
3 than one hundred fifty dollars (\$150).

4 (d) The renewal fee for a physical therapist license
5 shall be fixed by the examining board at not more than
6 one hundred fifty dollars (\$150).

7 (e) A fee to be set by the board of not more than
8 seventy-five dollars (\$75) shall be charged for each
9 application for approval as a physical therapist assistant.

10 (f) A fee to be set by the examining board of not more
11 than one hundred fifty dollars (\$150) shall be charged for
12 the issuance of and for the renewal of each approval as a
13 physical therapist assistant.

14 (g) Notwithstanding Section 163.5, the delinquency
15 fee shall be 50 percent of the renewal fee in effect.

16 (h) The duplicate wall certificate fee shall not exceed
17 twenty dollars (\$20). The duplicate renewal receipt fee
18 shall not exceed twenty dollars (\$20).

19 (i) The endorsement or letter of good standing fee is
20 thirty dollars (\$30).

21 (j) The amount of any fee established by statute or by
22 the board pursuant to statutory authority that is in effect
23 when this section becomes operative on January 1, 1999,
24 pursuant to subdivision (k), shall remain in effect after
25 that operative date, unless the board establishes a fee
26 amount that is less or greater than the previously
27 established fee amount as permitted by law.

28 (k) This section shall become operative on January 1,
29 1999.

30 SEC. 11. Section 2760.1 of the Business and
31 Professions Code is amended to read:

32 2760.1. (a) A registered nurse whose license has been
33 revoked, or suspended or who has been placed on
34 probation may petition the board for reinstatement or
35 modification of penalty, including reduction or
36 termination of probation, after a period not less than the
37 following minimum periods has elapsed from the
38 effective date of the decision ordering that disciplinary
39 action, or if the order of the board or any portion of it is
40 stayed by the board itself or by the superior court, from

1 the date the disciplinary action is actually implemented
2 in its entirety:

3 (1) Except as otherwise provided in this section, at
4 least three years for reinstatement of a license that was
5 revoked, except that the board may, in its sole discretion,
6 specify in its order a lesser period of time provided that
7 the period shall be not less than one year.

8 (2) At least two years for early termination of a
9 probation period of three years or more.

10 (3) At least one year for modification of a condition, or
11 reinstatement of a license revoked for mental or physical
12 illness, or termination of probation of less than three
13 years.

14 (b) The board shall give notice to the Attorney
15 General of the filing of the petition. The petitioner and
16 the Attorney General shall be given timely notice by
17 letter of the time and place of the hearing on the petition,
18 and an opportunity to present both oral and documentary
19 evidence and argument to the board. The petitioner shall
20 at all times have the burden of proof to establish by clear
21 and convincing evidence that he or she is entitled to the
22 relief sought in the petition.

23 (c) The hearing may be continued from time to time
24 as the board deems appropriate.

25 (d) The board itself shall hear the petition and the
26 administrative law judge shall prepare a written decision
27 setting forth the reasons supporting the decision.

28 (e) The board may grant or deny the petition, or may
29 impose any terms and conditions that it reasonably deems
30 appropriate as a condition of reinstatement or reduction
31 of penalty.

32 (f) The petitioner shall provide a current set of
33 fingerprints accompanied by the necessary
34 fingerprinting fee.

35 (g) No petition shall be considered while the
36 petitioner is under sentence for any criminal offense,
37 including any period during which the petitioner is on
38 court-imposed probation or parole, or subject to an order
39 of registration pursuant to Section 290 of the Penal Code.
40 No petition shall be considered while there is an

1 accusation or petition to revoke probation pending
2 against the petitioner.

3 (h) Except in those cases where the petitioner has
4 been disciplined for violation of Section 822, the board
5 may in its discretion deny without hearing or argument
6 any petition that is filed pursuant to this section within a
7 period of two years from the effective date of a prior
8 decision following a hearing under this section.

9 SEC. 12. Section 2762 of the Business and Professions
10 Code is amended to read:

11 2762. In addition to other acts constituting
12 unprofessional conduct within the meaning of this
13 chapter it is unprofessional conduct for a person licensed
14 under this chapter to do any of the following:

15 (a) Obtain or possess in violation of law, or prescribe,
16 or except as directed by a licensed physician and surgeon,
17 dentist, or podiatrist administer to himself or herself, or
18 furnish or administer to another, any controlled
19 substance as defined in Division 10 (commencing with
20 Section 11000) of the Health and Safety Code or any
21 dangerous drug or dangerous device as defined in Section
22 4022.

23 (b) Use any controlled substance as defined in
24 Division 10 (commencing with Section 11000) of the
25 Health and Safety Code, or any dangerous drug or
26 dangerous device as defined in Section 4022, or alcoholic
27 beverages, to an extent or in a manner dangerous or
28 injurious to himself or herself, any other person, or the
29 public or to the extent that such use impairs his or her
30 ability to conduct with safety to the public the practice
31 authorized by his or her license.

32 (c) Be convicted of a criminal offense involving the
33 prescription, consumption, or self-administration of any
34 of the substances described in subdivisions (a) and (b) of
35 this section, or the possession of, or falsification of a record
36 pertaining to, the substances described in subdivision (a)
37 of this section, in which event the record of the conviction
38 is conclusive evidence thereof.

39 (d) Be committed or confined by a court of competent
40 jurisdiction for intemperate use of or addiction to the use

1 of any of the substances described in subdivisions (a) and
2 (b) of this section, in which event the court order of
3 commitment or confinement is prima facie evidence of
4 such commitment or confinement.

5 (e) Falsify, or make grossly incorrect, grossly
6 inconsistent, or unintelligible entries in any hospital,
7 patient, or other record pertaining to the substances
8 described in subdivision (a) of this section.

9 SEC. 12.5. Section 2984 of the Business and
10 Professions Code is amended to read:

11 2984. Except as provided in Section 2985, a license
12 which has expired may be renewed at any time within
13 three years after its expiration on filing of application for
14 renewal on a form prescribed by the board and payment
15 of the renewal fee in effect on the last regular renewal
16 date. If the license is renewed after its expiration, the
17 licensee, as a condition precedent to renewal, shall also
18 pay the prescribed delinquency fee, if any. Renewal
19 under this section shall be effective on the date on which
20 the application is filed, on the date on which the renewal
21 fee is paid, or on the date on which the delinquency fee,
22 if any, is paid, whichever last occurs. If so renewed, the
23 license shall continue in effect through the expiration
24 date provided in Section 2982 which next occurs after the
25 effective date of the renewal, when it shall expire and
26 become invalid if it is not again renewed.

27 SEC. 13. Section 3452 of the Business and Professions
28 Code is amended to read:

29 3452. Except as otherwise provided in this chapter, an
30 expired license may be renewed at any time within three
31 years after its expiration on filing of an application for
32 renewal on a form prescribed by the committee, and
33 payment of all accrued and unpaid renewal fees. If the
34 license is renewed after its expiration the licensee, as a
35 condition precedent to renewal, shall also pay the
36 delinquency fee prescribed by this chapter. Renewal
37 under this section shall be effective on the date on which
38 the application is filed, on the date on which the renewal
39 fee is paid, or on the date on which the delinquency fee,
40 if any, is paid, whichever last occurs. If so renewed, the

1 license shall continue in effect through the date provided
2 in Section 3451 which next occurs after the effective date
3 of the renewal, when it shall expire if it is not again
4 renewed.

5 SEC. 13.3. Section 6980.28 of the Business and
6 Professions Code is amended to read:

7 6980.28. A locksmith license not renewed within
8 three years following its expiration may not be renewed
9 thereafter. Renewal of the license within three years, or
10 issuance of an original license thereafter, shall be subject
11 to payment of any and all fines assessed by the chief or the
12 director which are not pending appeal and all other
13 applicable fees.

14 SEC. 13.5. Section 7215.6 of the Business and
15 Professions Code is amended to read:

16 7215.6. (a) In order to provide a procedure for the
17 resolution of disputes between guide dog users and guide
18 dog schools relating to the continued physical custody
19 and use of a guide dog, in all cases except those in which
20 the dog user is the unconditional legal owner of the dog,
21 the following arbitration procedure shall be established as
22 a pilot project.

23 (b) This procedure establishes an arbitration panel for
24 the settlement of disputes between a guide dog user and
25 a licensed guide dog school regarding the continued use
26 of a guide dog by the user in all cases except those in
27 which the dog user is the unconditional legal owner of the
28 dog. The disputes which may be subject to this procedure
29 concern differences between the user and school over
30 whether or not a guide dog should continue to be used,
31 differences between the user and school regarding the
32 treatment of a dog by the user, and differences over
33 whether or not a user should continue to have custody of
34 a dog pending investigation of charges of abuse. It
35 specifically does not address issues such as admissions to
36 schools, training practices, or other issues relating to
37 school standards.

38 (c) The licensed guide dog schools in California and
39 the board shall provide to guide dog users graduating
40 from guide dog programs in these schools a new avenue



1 for the resolution of disputes which involve continued use
2 of a guide dog, or the actual physical custody of a guide
3 dog. Guide dog users who are dissatisfied with decisions
4 of schools regarding continued use of guide dogs may
5 appeal to the board to convene an arbitration panel
6 composed of all of the following:

7 (1) One person designated by the guide dog user.

8 (2) One person designated by the licensed guide dog
9 school.

10 (3) A representative of the board who shall coordinate
11 the activities of the panel and serve as chair.

12 (d) If the guide dog user or guide dog school wishes to
13 utilize the arbitration panel, this must be stated in writing
14 to the board. The findings and decision of the arbitration
15 panel shall be final and binding.

16 (e) A licensed guide dog school which fails to comply
17 with any provision of this section shall automatically be
18 subject to a penalty of two hundred fifty dollars (\$250)
19 per day for each day in which a violation occurs. The
20 penalty shall be paid to the board. The license of a guide
21 dog school shall not be renewed until all penalties have
22 been paid.

23 The fine shall be assessed without advance hearing, but
24 the licensee may apply to the board for a hearing on the
25 issue of whether the fine should be modified or set aside.
26 This application shall be in writing and shall be received
27 by the board within 30 days after service of notice of the
28 fine. Upon receipt of this written request, the board shall
29 set the matter for hearing within 60 days.

30 (f) As a general rule, custody of the guide dog shall
31 remain with the guide dog user pending a resolution by
32 the arbitration panel. In circumstances where the
33 immediate health and safety of the guide dog user or
34 guide dog is threatened, the licensed school may take
35 custody of the dog at once. However, if the dog is
36 removed from the user's custody without the user's
37 concurrence, the school shall provide to the board the
38 evidence which caused this action to be taken at once and
39 without fail; and within five calendar days a special
40 committee of two members of the board shall make a

1 determination regarding custody of the dog pending
2 hearing by the arbitration panel.

3 (g) The arbitration panel shall decide the best means
4 to determine final resolution in each case. This shall
5 include, but is not limited to, a hearing of the matter
6 before the arbitration panel at the request of either party
7 to the dispute, an opportunity for each party in the
8 dispute to make presentations before the arbitration
9 panel, examination of the written record, or any other
10 inquiry as will best reveal the facts of the disputes. In any
11 case, the panel shall make its findings and complete its
12 examination within 45 calendar days of the date of filing
13 the request for arbitration, and a decision shall be
14 rendered within 10 calendar days of the examination.

15 All arbitration hearings shall be held at sites convenient
16 to the parties and with a view to minimizing costs. Each
17 party to the arbitration shall bear its own costs, except
18 that the arbitration panel, by unanimous agreement, may
19 modify this arrangement.

20 (h) The board may study the effectiveness of the
21 arbitration panel pilot project in expediting resolution
22 and reducing conflict in disputes between guide dog
23 users and guide dog schools and may share its findings
24 with the Legislature upon request.

25 (i) This section shall cease to be operative on July 1,
26 2002, and as of January 1, 2003, is repealed, unless a later
27 enacted statute, which is enacted before January 1, 2003,
28 deletes or extends that date.

29 SEC. 14. Section 7410 of the Business and Professions
30 Code is amended to read:

31 7410. Persons to whom a notice of violation or a
32 citation is issued and an administrative fine assessed may
33 appeal the citation to a disciplinary review committee
34 established by regulation by the director. All appeals shall
35 be submitted in writing to the program within 30 days of
36 the date the citation was issued. Appeals of citations that
37 are not submitted in a timely manner shall be rejected.

38 After a timely appeal has been filed with the program,
39 the administrative fine, if any, shall be stayed until the
40 appeal has been adjudicated.

1 Persons appealing a citation, or their appointed
2 representatives, shall appear in person before the
3 disciplinary review committee. The appellant may
4 present written or oral evidence relating to the facts and
5 circumstances relating to the citation that was issued.
6 Following an appeal before a disciplinary review
7 committee, the disciplinary review committee shall issue
8 a decision, based on findings of fact, which may affirm,
9 reduce, dismiss, or alter any charges filed in the citation.
10 In no event shall the administrative fine be increased.
11 The appellant shall be provided with a written copy of the
12 disciplinary review committee's decision relating to the
13 appeal.

14 SEC. 15. Section 7411 of the Business and Professions
15 Code is amended to read:

16 7411. Persons receiving a decision from a disciplinary
17 review committee may appeal the decision by filing a
18 written request, within 30 days after receipt of the
19 decision, to the program administrator. Following a
20 hearing to appeal the decision of a disciplinary review
21 committee, the director shall thereafter issue a decision,
22 based on findings of fact, affirming, modifying or vacating
23 the citation or penalty, or directing other appropriate
24 relief. In no event shall the administrative fine be
25 increased. The hearing to contest the decision of a
26 disciplinary review committee shall be conducted in
27 accordance with Chapter 5 (commencing with Section
28 11500) of Part 1 of Division 3 of Title 2 of the Government
29 Code, and the director shall have all powers granted
30 therein.

31 SEC. 16. Section 7412 of the Business and Professions
32 Code is repealed.

33 SEC. 17. Section 7413 of the Business and Professions
34 Code is amended to read:

35 7413. Appeals of citations not filed in a timely manner
36 or failure of the appellant or the appellant's
37 representative to appear before the disciplinary review
38 committee at the appointed time except when good
39 cause is shown, shall cause the citation to become final

1 and there shall be no administrative appeal except as
2 otherwise provided by law.

3 SEC. 17.5. Section 7417 of the Business and
4 Professions Code is amended to read:

5 7417. Except as otherwise provided in this article, a
6 license that has expired for failure of the licensee to
7 renew within the time fixed by this article may be
8 renewed at any time within five years following its
9 expiration upon application and payment of all accrued
10 and unpaid renewal fees and delinquency fees. If the
11 license is renewed after its expiration, the licensee, as a
12 condition precedent to renewal, shall also pay the
13 delinquency fee and meet current continuing education
14 requirements, if applicable, prescribed by this chapter.
15 Renewal under this section shall be effective on the date
16 on which the application is filed, or on the date on which
17 the accrued renewal fees are paid, or on the date on
18 which the delinquency fee, if any, is paid, whichever
19 occurs last. If so renewed, the license shall continue in
20 effect through the expiration date provided in this article
21 which next occurs following the effective date of the
22 renewal, when it shall expire if it is not again renewed.

23 SEC. 18. Section 7431.5 of the Business and
24 Professions Code is repealed.

25 SEC. 18.1. Section 7503.14 of the Business and
26 Professions Code is amended to read:

27 7503.14. A repossession agency license which is not
28 renewed within three years after its expiration may not
29 be renewed, restored, reinstated, or reissued thereafter.

30 The holder of the repossession agency license may
31 obtain a new license only upon compliance with all of the
32 provisions of this chapter relating to the issuance of an
33 original license.

34 SEC. 18.2. Section 7558.5 of the Business and
35 Professions Code is amended to read:

36 7558.5. Except as otherwise provided in this article, an
37 expired license or branch office certificate may be
38 renewed at any time within three years after its
39 expiration on filing of application for renewal on a form
40 prescribed by the director, and payment of the renewal

1 fee in effect on the last preceding regular renewal date.
2 If the license or certificate is renewed more than 30 days
3 after its expiration, the licensee, as a condition precedent
4 to renewal, shall also pay the delinquency fee prescribed
5 in this chapter. Renewal under this section shall be
6 effective on the date on which the application is filed, on
7 the date on which the renewal fee is paid, or on the date
8 on which the delinquency fee, if any, is paid, whichever
9 last occurs. If so renewed, the license or certificate shall
10 continue in effect through the date provided in Section
11 7558 which next occurs after the effective date of the
12 renewal, when it shall expire if it is not again renewed.

13 Renewal of a license or certificate shall not prohibit the
14 bringing of disciplinary proceedings for an act committed
15 before the effective date of the renewal.

16 SEC. 18.3. Section 7560 of the Business and
17 Professions Code is amended to read:

18 7560. A license or branch office certificate which is
19 not renewed within three years after its expiration may
20 not be renewed, restored, reinstated, or reissued
21 thereafter.

22 The holder of the license or certificate may obtain a
23 new license or certificate only on compliance with all of
24 the provisions of this chapter relating to the issuance of
25 an original license or certificate.

26 SEC. 18.5 Section 7582.26 of the Business and
27 Professions Code is amended to read:

28 7582.26. (a) Any licensee or officer, director, partner,
29 or manager of a licensee may divulge to any law
30 enforcement officer or district attorney, or his or her
31 representative, any information he or she may acquire as
32 to any criminal offense, but he or she shall not divulge to
33 any other person, except as he or she may be required by
34 law so to do, any information acquired by him or her
35 except at the direction of the employer or client for whom
36 the information was obtained.

37 (b) No licensee or officer, director, partner, manager,
38 or employee of a licensee shall knowingly make any false
39 report to his or her employer or client for whom
40 information was being obtained.

1 (c) No written report shall be submitted to a client
2 except by the licensee, qualifying manager, or a person
3 authorized by one or either of them, and the person
4 submitting the report shall exercise diligence in
5 ascertaining whether or not the facts and information in
6 the report are true and correct.

7 (d) No licensee, or officer, director, partner, manager,
8 or employee of a licensee, shall use a title, or wear a
9 uniform, or use an insignia, or use an identification card,
10 or make any statement with the intent to give an
11 impression that he or she is connected in any way with the
12 federal government, a state government, or any political
13 subdivision of a state government.

14 (e) No licensee, or officer, director, partner, manager,
15 or employee of a licensee, shall enter any private building
16 or portion thereof, except premises commonly accessible
17 to the public, without the consent of the owner or of the
18 person in legal possession thereof.

19 (f) No private patrol licensee, or officer, director,
20 partner, manager, or employee of a private patrol
21 licensee shall use or wear a badge, except while engaged
22 in guard or patrol work and while wearing a distinctive
23 uniform. A private patrol licensee, or officer, director,
24 partner, manager, or employee of a private patrol
25 licensee wearing a distinctive uniform shall wear a patch
26 on each shoulder of his or her uniform that reads "private
27 security" and that includes the name of the private patrol
28 company by which the person is employed or for which
29 the person is a representative and a badge or cloth patch
30 on the upper left breast of the uniform. All patches and
31 badges worn on a distinctive uniform shall be of a
32 standard design approved by the director and shall be
33 clearly visible.

34 (g) No licensee shall permit an employee or agent in
35 his or her own name to advertise, engage clients, furnish
36 reports or present bills to clients, or in any manner
37 whatever conduct business for which a license is required
38 under this chapter. All business of the licensee shall be
39 conducted in the name of and under the control of the
40 licensee.

1 (h) No licensee shall use a fictitious name in
2 connection with the official activities of the licensee's
3 business.

4 (i) No private patrol operator licensee or officer,
5 director, partner, or manager of a private patrol operator
6 licensee, or person required to be registered as a security
7 guard pursuant to this chapter shall use or wear a baton
8 or exposed firearm as authorized by this chapter unless he
9 or she is wearing a uniform which complies with the
10 requirements of Section 7582.27.

11 SEC. 18.6. Section 7585.20 of the Business and
12 Professions Code is amended to read:

13 7585.20. (a) A firearms training facility certificate, a
14 firearms training instructor certificate, a baton training
15 facility certificate, or a baton training instructor
16 certificate which expires on or after January 1, 1985, shall
17 be placed on a cyclical renewal and shall expire two years
18 following the date of issuance or assigned renewal date.
19 In order to implement the cyclical renewal, the
20 population of licensees mentioned in this section shall be
21 divided into 24 equal groups, the licenses of each group
22 to expire on the last day of each successive month.
23 Notwithstanding any other provision of law, the bureau
24 shall have authority to extend or shorten the first term of
25 licensure following January 1, 1985, and to prorate the
26 required license fee in order to implement this cyclical
27 renewal. To renew an unexpired certificate, the
28 certificate holder shall apply for renewal on a form
29 prescribed by the director and pay the renewal fee
30 prescribed by this chapter.

31 (b) If renewal is granted, evidence of renewal of the
32 certificate that the director may prescribe shall be issued
33 to the certificate holder.

34 (c) In the event the certificate holder fails to renew his
35 or her training facility certificate, the certificate shall be
36 automatically canceled, but may be reinstated within
37 three years of the date of cancellation upon application
38 for reinstatement and upon the payment of the
39 reinstatement fee provided by this chapter. In the event
40 the certificate holder fails to renew his or her training

1 instructor certificate, the certificate shall be
2 automatically canceled, but may be reinstated within 30
3 days of the date of cancellation upon application for
4 reinstatement and upon the payment of the
5 reinstatement fee provided by this chapter.
6 Reinstatement of a canceled certificate shall not prohibit
7 the bringing of disciplinary proceedings for any act
8 committed in violation of this chapter during the period
9 the certificate is canceled.

10 (d) A firearms training facility, a firearms training
11 instructor, a baton training facility, or a baton training
12 instructor whose certificate has not been renewed may
13 obtain a new license only upon compliance with all of the
14 provisions of this article relating to the issuance of an
15 original certificate.

16 (e) A firearms training facility, firearms training
17 instructor, baton training facility, or a baton training
18 instructor certificate shall not be renewed until any and
19 all fines assessed pursuant to Section 7587.7 and not
20 resolved in accordance with the provisions of that section
21 have been paid.

22 SEC. 18.7. Section 7586.2 of the Business and
23 Professions Code is amended to read:

24 7586.2. Except as otherwise provided in this article, an
25 expired license or branch office certificate may be
26 renewed at any time within three years after its
27 expiration on filing of application for renewal on a form
28 prescribed by the director, and payment of the renewal
29 fee in effect on the last preceding regular renewal date.
30 If the license or certificate is renewed more than 30 days
31 after its expiration, the licensee, as a condition precedent
32 to renewal, shall also pay the delinquency fee prescribed
33 in this chapter. Renewal under this section shall be
34 effective on the date on which the application is filed, on
35 the date on which the renewal fee is paid, or on the date
36 on which the delinquency fee, if any, is paid, whichever
37 last occurs. If so renewed, the license or certificate shall
38 continue in effect through the date provided in Section
39 7586 which next occurs after the effective date of the
40 renewal, when it shall expire if it is not again renewed.



1 Renewal of a license or certificate shall not prohibit the
2 bringing of disciplinary proceedings for an act committed
3 before the effective date of the renewal.

4 SEC. 18.8. Section 7586.5 of the Business and
5 Professions Code is amended to read:

6 7586.5. A license or branch office certificate which is
7 not renewed within three years after its expiration may
8 not be renewed, restored, reinstated, or reissued
9 thereafter.

10 The holder of the license or certificate may obtain a
11 new license or certificate only on compliance with all of
12 the provisions of this chapter relating to the issuance of
13 an original license or certificate.

14 SEC. 19. Section 7587.8 of the Business and
15 Professions Code is amended to read:

16 7587.8. The director may assess fines for the following
17 acts pursuant to Article 4 (commencing with Section
18 7583) only as follows:

19 (a) Violation of subdivisions (a), (b), and (c) of
20 Section 7583.2; twenty-five dollars (\$25) per violation.

21 (b) Violation of subdivision (e) of Section 7583.2;
22 fifty-seven dollars (\$57) for each violation.

23 (c) Violation of subdivisions (g) and (h) of Section
24 7583.2; twenty-five dollars (\$25) for the first violation and
25 one hundred dollars (\$100) per violation for each
26 violation thereafter.

27 (d) Violation of subdivision (d) of Section 7583.2; one
28 hundred dollars (\$100) per violation.

29 (e) Violation of subdivision (f) of Section 7583.2; two
30 hundred fifty dollars (\$250) per violation.

31 SEC. 19.5. Section 7593.12 of the Business and
32 Professions Code is amended to read:

33 7593.12. An alarm company operator's license not
34 renewed within three years following its expiration may
35 not be renewed thereafter. Renewal of the license within
36 one year, or issuance of an original license thereafter, shall
37 be subject to payment of any and all fines assessed
38 pursuant to Section 7591.9 and not resolved in accordance
39 with the provisions of that section and payment of all
40 applicable fees.

1 SEC. 20. Section 7598.7 of the Business and
2 Professions Code is amended to read:

3 7598.7. (a) Except as provided in subdivision (b), an
4 employee of a licensee may be assigned to work with a
5 temporary application for registration until the bureau
6 issues a registration card or denies the application for
7 registration. A temporary application for registration
8 shall be a copy of the initial application. Any alarm agent
9 employee assigned to work must carry either a temporary
10 application for registration or a valid registration. A
11 temporary application for registration shall in no event be
12 valid for more than 120 days. However, the director may
13 extend the expiration date beyond the 120 days if there
14 is an abnormal delay in processing applications for
15 registration. For purposes of this section, the 120-day
16 period shall commence on the date the applicant signs
17 and submits the application.

18 (b) Notwithstanding subdivision (a), an employee
19 who has been convicted of a crime prior to applying for
20 registration shall not be issued a temporary application
21 for registration and shall not be assigned to work as an
22 alarm agent until the bureau issues a permanent
23 registration card. This subdivision shall apply only if the
24 applicant for registration has disclosed the conviction to
25 the bureau on his or her application form, or if the fact of
26 the conviction has come to the attention of the bureau
27 through official court or other governmental documents.

28 SEC. 21. Section 7601 is added to the Business and
29 Professions Code, to read:

30 7601. The following terms as used in this chapter shall
31 have meanings expressed in this section:

32 (a) "Department" means the Department of
33 Consumer Affairs.

34 (b) "Director" means the Director of Consumer
35 Affairs.

36 (c) "Program" means the Funeral Directors and
37 Embalmers Program.

38 SEC. 22. Section 7602 of the Business and Professions
39 Code is amended to read:

1 7602. There is in the department the Funeral
2 Directors and Embalmers Program, under the
3 supervision and control of the director.

4 The director may appoint a chief at a salary to be fixed
5 and determined by the director, with the approval of the
6 Director of Finance. The duty of enforcing and
7 administering this chapter is vested in the chief, and he
8 or she is responsible to the director therefor. The chief
9 shall serve at the pleasure of the director.

10 Every power granted or duty imposed upon the
11 director under this chapter may be exercised or
12 performed in the name of the director by a deputy
13 director or by the chief, subject to such conditions and
14 limitations as the director may prescribe.

15 SEC. 23. Section 7603 of the Business and Professions
16 Code is repealed.

17 SEC. 24. Section 7604 of the Business and Professions
18 Code is repealed.

19 SEC. 25. Section 7605 of the Business and Professions
20 Code is repealed.

21 SEC. 26. Section 7606 of the Business and Professions
22 Code is amended to read:

23 7606. The program may, pursuant to the provisions of
24 the Administrative Procedure Act, adopt and enforce
25 reasonably necessary rules and regulations relating to:

26 (a) The practice of embalming;

27 (b) The business of a funeral director;

28 (c) The sanitary conditions of places where such
29 practice or business is conducted with particular regard
30 to plumbing, sewage, ventilation and equipment;

31 (d) Specifying conditions for approval of funeral
32 establishments for apprentices and for approval of
33 embalming schools;

34 (e) The scope of examinations;

35 (f) Carrying out generally the various provisions of
36 this chapter for the protection of the peace, health, safety,
37 welfare and morals of the public.

38 SEC. 27. Section 7607 of the Business and Professions
39 Code is amended to read:

1 7607. The program may inspect the premises in which
2 the business of a funeral director is conducted or where
3 embalming is practiced.

4 SEC. 28. Section 7607.5 of the Business and
5 Professions Code is repealed.

6 SEC. 29. Section 7608 of the Business and Professions
7 Code is amended to read:

8 7608. The Director of Consumer Affairs may employ
9 and appoint all employees necessary to properly
10 administer the work of the program, in accordance with
11 civil service regulations.

12 With the approval of the Director of Finance, and,
13 subject to the provisions of Section 159.5, the program
14 shall employ investigators and attorneys to assist the
15 program in prosecuting violations of this chapter, whose
16 compensation and expenses shall be payable only out of
17 the State Funeral Directors and Embalmers Fund.

18 SEC. 30. Section 7610 of the Business and Professions
19 Code is amended to read:

20 7610. All suits or actions commenced in the superior
21 court against the program shall be filed and tried either
22 in the County of Sacramento, or in the county of the
23 residence of the plaintiff or petitioner, or in the county
24 where the act occurred, which is the basis of the suit or
25 action.

26 SEC. 31. The heading of Article 2 (commencing with
27 Section 7615) of Chapter 12 of Division 3 of the Business
28 and Professions Code is amended to read:

29

30 Article 2. Funeral Establishments and Directors

31

32 SEC. 32. Section 7616.2 of the Business and
33 Professions Code is amended to read:

34 7616.2. A licensed funeral establishment shall at all
35 times employ a licensed funeral director to manage,
36 direct, or control its business or profession.
37 Notwithstanding any other provisions of this chapter,
38 licensed funeral establishments within close geographical
39 proximity of each other, may request the program to
40 allow a licensed funeral director to manage, direct, or



1 control the business or profession of more than one
2 facility.

3 SEC. 33. Section 7618 of the Business and Professions
4 Code is amended to read:

5 7618. An application for a funeral director's license
6 shall be written on a form provided by the program,
7 verified by the applicant, accompanied by the fee fixed
8 by this chapter and filed at its Sacramento office.

9 SEC. 34. Section 7619.2 of the Business and
10 Professions Code is amended to read:

11 7619.2. The program shall grant a funeral director's
12 license to any applicant who complies with this article,
13 notwithstanding Section 7619, if the applicant can
14 demonstrate that he or she has complied with Section
15 7622 on or before July 1, 1999.

16 SEC. 35. Section 7621 of the Business and Professions
17 Code is amended to read:

18 7621. The applicant shall also furnish the program
19 with satisfactory proof that the facility in which he or she
20 intends to conduct business as a funeral director is or will
21 be constructed, equipped and maintained in all respects
22 as a licensed funeral establishment as defined in this
23 chapter.

24 ~~SEC. 36. Section 7622.3 of the Business and~~
25 ~~Professions Code is amended to read:~~

26 ~~7622.3. The program shall adopt regulations requiring~~
27 ~~continuing education of 14 hours every two years for~~
28 ~~licensed funeral directors.~~

29 SEC. 37. Section 7625 of the Business and Professions
30 Code is amended to read:

31 7625. Upon receipt of an application for a license, the
32 program shall cause an investigation to be made of the
33 physical status or plans and specifications of the proposed
34 funeral establishment, and of the other qualifications
35 required of the applicant under this chapter, and for this
36 purpose may subpoena witnesses, administer oaths, and
37 take testimony.

38 The program shall grant a license if it finds that the
39 proposed funeral establishment is or will be constructed
40 and equipped as required by this chapter and that the

1 applicant is qualified in all other respects as required by
2 this chapter.

3 SEC. 38. Section 7626 of the Business and Professions
4 Code is amended to read:

5 7626. The program shall examine and pass upon the
6 qualifications of the applicant as to ability and experience
7 before passing upon the physical status or plans and
8 specifications of the proposed funeral establishment.

9 SEC. 39. Section 7626.5 of the Business and
10 Professions Code is amended to read:

11 7626.5. Where a hearing is held to determine whether
12 an application for a license should be granted, the
13 proceeding shall be conducted in accordance with
14 Chapter 5 of Part 1 of Division 3 of Title 2 of the
15 Government Code, and the program shall have all of the
16 powers granted therein.

17 SEC. 40. Section 7628 of the Business and Professions
18 Code is amended to read:

19 7628. Any person, partnership, association,
20 corporation, or other organization desiring to change the
21 location of a licensed funeral establishment shall apply
22 therefor on forms furnished by the program and shall
23 include a fee fixed by this chapter.

24 The application shall be granted by the program upon
25 the filing with the program of a favorable report from an
26 inspector concerning the physical status or plans and
27 specifications of the proposed licensed funeral
28 establishment to the effect that it conforms to the
29 requirements of this article.

30 SEC. 41. Section 7629 of the Business and Professions
31 Code is amended to read:

32 7629. No funeral establishment shall be conducted or
33 held forth as being conducted or advertised as being
34 conducted under any name which might tend to mislead
35 the public or which would be sufficiently like the name
36 of any other licensed funeral director so as to constitute
37 an unfair method of competition.

38 Any funeral director desiring to change the name
39 appearing on his or her license may do so by applying to
40 the program and paying the fee fixed by this chapter.

1 SEC. 42. Section 7631 of the Business and Professions
2 Code is amended to read:

3 7631. In case of the death of a licensed funeral
4 director, who leaves an established business as part or all
5 of the assets of his or her estate, the program may issue a
6 special temporary license to his or her legal
7 representative, unless the legal representative has
8 committed acts or crimes constituting grounds for denial
9 of licensure under Section 480.

10 SEC. 43. Section 7632 of the Business and Professions
11 Code is amended to read:

12 7632. Every funeral director shall cause all human
13 remains embalmed in his or her funeral establishment to
14 be embalmed by a regularly licensed embalmer, or by an
15 apprentice embalmer under the supervision of a
16 regularly licensed embalmer.

17 SEC. 44. Section 7634 of the Business and Professions
18 Code is amended to read:

19 7634. Notwithstanding any other provision of law, a
20 licensed embalmer, at the request of a licensed physician,
21 may remove tissue from human remains for transplant, or
22 therapeutic, or scientific purposes specified in, and
23 pursuant to, the provisions of the Uniform Anatomical
24 Gift Act (Chapter 3.5 (commencing with Section 7150) of
25 Part 1 of Division 7 of the Health and Safety Code), if such
26 embalmer has completed a course in tissue removal for
27 transplant, or therapeutic, or scientific purposes
28 approved by the Medical Board of California of the State
29 of California.

30 SEC. 45. Section 7635 of the Business and Professions
31 Code is amended to read:

32 7635. (a) Any person employed by, or an agent of, a
33 licensed funeral establishment, who consults with the
34 family or representatives of a family of a deceased person
35 for the purpose of arranging for services as set forth in
36 subdivision (a) of Section 7615, shall receive documented
37 training and instruction which results in a demonstrated
38 knowledge of all applicable federal and state laws, rules,
39 and regulations including those provisions dealing with
40 vital statistics, the coroner, anatomical gifts, and other

1 laws, rules, and regulations pertaining to the duties of a
2 funeral director. A written outline of the training
3 program, including documented evidence of the training
4 time, place, and participants, shall be maintained in the
5 funeral establishment and shall be available for
6 inspection and comment by an inspector of the
7 department.

8 (b) This section shall not apply to anyone who has
9 successfully passed the funeral director's examination
10 pursuant to Section 7622.

11 SEC. 46. Section 7640 of the Business and Professions
12 Code is amended to read:

13 7640. An embalmer is one who is duly qualified to
14 disinfect or preserve human remains by the injection or
15 external application of antiseptics, disinfectants or
16 preservative fluids; to prepare human bodies for
17 transportation which are dead of contagious or infectious
18 diseases; and to use derma surgery or plastic art for
19 restoring mutilated features; and who is duly licensed as
20 an embalmer under the laws of the State of California.

21 SEC. 47. Section 7641 of the Business and Professions
22 Code is amended to read:

23 7641. It is unlawful for any person to embalm a body,
24 or engage in, or hold himself or herself out as engaged in
25 practice as an embalmer, unless he or she is licensed by
26 the program. However, this section shall have no effect
27 on students and instructors of embalming in embalming
28 colleges approved by the program.

29 SEC. 48. Section 7642 of the Business and Professions
30 Code is amended to read:

31 7642. An application for an embalmer's license shall
32 be written on a form provided by the program, verified
33 by the applicant, and accompanied by the fee fixed by this
34 chapter.

35 SEC. 49. Section 7643 of the Business and Professions
36 Code is amended to read:

37 7643. In order to qualify for a license as an embalmer,
38 the applicant shall comply with all of the following
39 requirements:

40 (a) Be over 18 years of age.

1 (b) Not have committed acts or crimes constituting
2 grounds for denial of licensure under Section 480.

3 (c) Furnish proof showing completion of a high school
4 course or instead he or she may furnish the program with
5 evidence that he or she has been licensed and has
6 practiced as an embalmer for a minimum of three years
7 within the seven years preceding his or her application in
8 any other state or country and that the license has never
9 been suspended or revoked for unethical conduct.

10 (d) Have completed at least two years of
11 apprenticeship under an embalmer licensed and
12 engaged in practice as an embalmer in this state in a
13 funeral establishment which shall have been approved
14 for apprentices by the program and while so apprenticed
15 shall have assisted in embalming not fewer than 100
16 human remains; provided, however, that a person who
17 has been licensed and has practiced as an embalmer for
18 a minimum of three years within the seven years
19 preceding his or her application in any other state or
20 country and whose license has never been suspended or
21 revoked for unethical conduct shall not be required to
22 serve any apprenticeship in this state.

23 (e) Have successfully completed a course of
24 instruction of not less than one academic year in an
25 embalming school approved by the program and
26 accredited by the American Board of Funeral Service
27 Education.

28 SEC. 50. Section 7646 of the Business and Professions
29 Code is amended to read:

30 7646. The program shall require the applicant to pass
31 an examination, which shall include the following
32 subjects:

33 (a) Theory and practice of embalming.

34 (b) Anatomy, including histology, embryology and
35 dissection.

36 (c) Pathology and bacteriology.

37 (d) Hygiene, including sanitation and public health.

38 (e) Chemistry, including toxicology.

39 (f) Restorative art, including plastic surgery and
40 demisurgery.

(g) Laws, rules and regulations of the program, including those sections of the Health and Safety Code which pertain to the funeral industry.

SEC. 51. Section 7647 of the Business and Professions Code is amended to read:

7647. The program shall examine applicants for embalmer's licenses at least once annually.

Examinations shall be held at such times and places as may be determined by the program.

Notice of the time and place of such examinations shall be given as determined by the program.

SEC. 52. Section 7647.5 of the Business and Professions Code is amended to read:

7647.5. Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the program shall have all of the powers granted therein.

SEC. 53. Section 7650 of the Business and Professions Code is amended to read:

7650. From time to time, the program may examine the requirements for the issuance of licenses to embalmers in other states of the United States and cause a record to be kept of those states in which standards are maintained for embalmers, not lower than those provided in this chapter.

~~SEC. 54. Section 7651 of the Business and Professions Code is amended to read:~~

~~7651. The program shall adopt regulations requiring continuing education of 14 hours every two years for licensed embalmers.~~

SEC. 55. Section 7661 of the Business and Professions Code is amended to read:

7661. An application for registration as an embalmer's apprentice shall be made upon a form provided by the program, verified by the applicant and accompanied by the fee fixed by this chapter.

SEC. 56. Section 7662 of the Business and Professions Code is amended to read:

1 7662. In order to qualify as an apprentice embalmer,
2 an applicant shall comply with all of the following
3 requirements:

4 (a) Be over 18 years of age.

5 (b) Not have committed acts or crimes constituting
6 grounds for denial of licensure under Section 480.

7 (c) Furnish proof showing completion of a high school
8 course or instead he or she may furnish the program with
9 evidence that he or she has been licensed and has
10 practiced as an embalmer for a minimum of three years
11 within the seven years preceding his or her application in
12 any other state or country and that the license has never
13 been suspended or revoked for unethical conduct.

14 SEC. 57. Section 7663 of the Business and Professions
15 Code is repealed.

16 SEC. 58. Section 7664 of the Business and Professions
17 Code is amended to read:

18 7664. Certificates of apprenticeship issued pursuant
19 to this article shall expire when the holder has been issued
20 a license as an embalmer, or six years from the date of
21 registration, whichever first occurs. The certificates may
22 not be renewed, but an apprentice embalmer who has not
23 completed his or her term of apprenticeship at the time
24 his or her certificate expires may apply for reregistration
25 upon compliance with Section 7661. The program may,
26 when the circumstances warrant, allow an apprentice
27 credit under a reregistration for the time actually served
28 under a previous registration, but no reregistration shall
29 have the effect of continuing the term of apprenticeship
30 beyond the period specified in Sections 7666 and 7666.5.

31 SEC. 59. Section 7665 of the Business and Professions
32 Code is amended to read:

33 7665. All registered apprentice embalmers shall
34 comply with the following requirements during their
35 period of apprenticeship:

36 (a) Shall file a report of apprenticeship as follows:

37 (1) On or before January 15 of each year covering the
38 period of apprenticeship ending as of December 31
39 preceding.

1 (2) Upon change of supervising embalmer or
2 employer, or both.

3 (3) Upon completion of apprenticeship.

4 (4) Upon application for leave of absence for a period
5 in excess of 15 days.

6 (5) Upon suspending apprenticeship to attend
7 embalming college.

8 (6) Upon application for reregistration after
9 suspension or revocation of registration where complete
10 report of previous registration has not been filed.

11 (b) The information contained in the report shall
12 consist of a concise summary of the work done by the
13 apprentice during the period covered thereby, shall be
14 verified by the apprentice and certified to as correct by
15 his or her supervising embalmer and employer. Upon
16 request of the program, each funeral director in whose
17 establishment an apprenticeship is being, or has been,
18 served, and each embalmer under whose instruction or
19 supervision an apprenticeship is being or has been served,
20 shall promptly file with the program a report or such
21 other information as may be requested relating to the
22 apprenticeship. Failure to comply with the request is
23 cause for revocation by the program of the approval
24 granted to the funeral director or embalmer for the
25 training of apprentices and is also a cause for disciplinary
26 action against the funeral director or embalmer.

27 SEC. 60. Section 7666 of the Business and Professions
28 Code is amended to read:

29 7666. (a) The term of apprenticeship shall be two
30 years. However if an apprentice after having served his
31 or her apprenticeship fails to pass the examination for an
32 embalmer's license he or she may continue for one
33 additional term of apprenticeship, which shall be the
34 maximum apprenticeship permitted and provided
35 further that an apprentice may, upon filing an application
36 therefor, be permitted to continue the apprenticeship for
37 a period not to exceed six months, if approved, for any of
38 the following reasons:

39 (1) While awaiting the processing of applications
40 submitted to the program.

1 (2) While awaiting notification of grades of
2 embalmers' examinations administered by the program.

3 (3) While awaiting the commencement of a class of an
4 embalming school or college when the apprentice
5 intends to enroll in the school or college.

6 Applications filed for an extension of apprenticeship
7 shall be filed by the applicant with the program not fewer
8 than 15 days prior to the date the applicant requests the
9 extension to commence.

10 (b) Terms of apprenticeship may be served before,
11 after, or divided by the embalming college course at the
12 option of the apprentice; provided, however, that the
13 term of apprenticeship must be completed, excluding
14 time spent in active military service, within six years from
15 the date of original registration, or from the date an
16 apprentice successfully passes the examination for
17 embalmer's license required in Section 7646 of this code,
18 whichever first occurs, and provided further that if the
19 term of apprenticeship is not completed within the
20 six-year period, the program may require that the
21 applicant serve the additional term of apprenticeship, not
22 to exceed two years.

23 (c) A student attending an embalming college may
24 register as an apprentice during his or her college term
25 but shall receive no credit for apprenticeship on the term
26 required by this code unless he or she is also a full-time
27 employee of a funeral director.

28 (d) An apprentice while serving his or her required
29 term of apprenticeship shall be a full-time employee in
30 the funeral establishment in which he or she is employed.

31 SEC. 61. Section 7667 of the Business and Professions
32 Code is amended to read:

33 7667. (a) The program shall have the power to grant
34 leaves of absence and extensions of leaves of absence and
35 approve absences during the term of apprenticeship.

36 (b) A leave of absence, including any extensions, shall
37 not be approved for a longer period than an aggregate of
38 one year.

1 (c) No credit will be given to an apprentice on his or
2 her apprenticeship for the period during which he or she
3 is absent from duty on leave.

4 (d) Application for a leave of absence and for an
5 extension thereof shall be made by the apprentice on a
6 form provided by the program.

7 (e) Upon termination of a leave of absence, the
8 apprentice shall report that fact to the program within 10
9 days of his or her resumption of apprenticeship by
10 returning to the program, his or her certificate of
11 registration accompanied by a statement as to the
12 resumption of apprenticeship which statement shall be
13 certified as correct by the funeral director in whose
14 establishment he or she is to resume his or her duties and
15 by the embalmer under whose supervision he or she is to
16 resume his or her apprenticeship.

17 (f) Failure to report within 10 days after the expiration
18 date of any leave of absence shall be cause for cancellation
19 of the registration of an apprentice.

20 SEC. 62. Section 7668 of the Business and Professions
21 Code is amended to read:

22 7668. The program may suspend or revoke a
23 certificate of apprenticeship, after notice and upon
24 complaint and hearing in accordance with the provisions
25 of Article 6, if the apprentice is guilty of any of the
26 following acts or omissions:

27 (a) Failure to devote full-time employment to the
28 duties of his or her apprenticeship.

29 (b) Failure to make any report required by this
30 chapter.

31 (c) Absence from duty except as provided in this code.

32 (d) Being on duty as an apprentice while under the
33 influence of any controlled substance, as defined in
34 Division 10 (commencing with Section 11000) of the
35 Health and Safety Code, or any dangerous drug as defined
36 in Article 2 (commencing with Section 4015) of Chapter
37 9 of the Business and Professions Code, or alcoholic
38 beverages or other intoxicating substances, to an extent
39 dangerous or injurious to himself, herself, any person, or
40 the public to the extent that such use impairs his or her

1 ability to conduct with safety to the public the practice
2 authorized by his or her certification.

3 (e) Disobedience of proper orders or instructions of
4 his or her superior.

5 (f) Violation of any provision of this chapter or any
6 rule or regulation of the program.

7 (g) Soliciting business for a funeral director or for an
8 embalmer in violation of this chapter.

9 (h) Fraud or misrepresentation in obtaining a
10 certificate of registration as an apprentice.

11 (i) Conviction of a crime substantially related to the
12 qualifications, functions and duties of an apprentice, in
13 which case the record of conviction, or a certified copy,
14 shall be conclusive evidence of the conviction.

15 SEC. 63. Section 7669 of the Business and Professions
16 Code is amended to read:

17 7669. An apprentice who has had his or her certificate
18 of apprenticeship suspended or revoked may, within one
19 year after the suspension or revocation apply for
20 reregistration upon compliance with the law in effect at
21 the time he or she so applies and payment of the
22 apprentice application fee fixed by this chapter. No
23 reregistration shall have the effect of continuing an
24 apprenticeship beyond the period specified in Section
25 7666.

26 The program may, when the circumstances warrant,
27 allow an apprentice credit under a reregistration for the
28 time actually served under a previous registration, but if
29 the previous registration has been suspended or revoked
30 for unprofessional conduct, not more than 75 percent of
31 the time previously served shall be credited on the
32 reregistration.

33 SEC. 64. Section 7670 of the Business and Professions
34 Code is amended to read:

35 7670. (a) The apprenticeship required by this article
36 shall be served in a licensed funeral establishment that
37 shall have been previously approved for apprenticeship
38 training by the program. In order to qualify for approval
39 the funeral director shall submit to the program an

1 application, accompanied by the fee fixed by this chapter,
2 showing:

3 (1) That not less than 50 human remains per
4 apprentice employed have been embalmed in the
5 establishment during the 12 months immediately
6 preceding the date of the application.

7 (2) That the applicant has, and will continue to have,
8 in full-time employment, for each two apprentices
9 employed in his or her establishment, a California
10 embalmer who has had not less than two years' practical
11 experience as a California licensed embalmer
12 immediately preceding the date of the application.

13 (3) That the licensed funeral establishment of that
14 applicant meets the requirements of law as to equipment,
15 cleanliness and sanitation as determined by an inspection
16 report filed with the program.

17 (b) Licensed funeral establishments under common
18 ownership within close geographical proximity of each
19 other may request any of the following from the program:

20 (1) To be treated in aggregate for the purpose of
21 meeting the requirements of paragraph (1) of
22 subdivision (a).

23 (2) To designate one additional supervising embalmer
24 per registered apprentice.

25 (3) To allow a registered apprentice to serve in any or
26 all of the licensed funeral establishments requested and
27 approved pursuant to this section.

28 (c) Approval granted under this section shall be
29 renewed annually upon application by the funeral
30 director, showing continued compliance with the
31 foregoing provisions of this section, filed with the
32 program not later than January 15 of each year. An
33 application for renewal shall be accompanied by the fee
34 fixed by this chapter.

35 SEC. 65. Section 7685.2 of the Business and
36 Professions Code is amended to read:

37 7685.2. No funeral director shall enter into a contract
38 for furnishing services or property in connection with the
39 burial or other disposal of human remains until he or she
40 has first submitted to the potential purchaser of such

1 services or property a written or printed memorandum
2 containing the following, provided such information is
3 available at the time of execution of the contract:

4 (a) The total charge for the funeral director's services
5 and the use of his or her facilities, including the
6 preparation of the body and other professional services,
7 and the charge for the use of automotive and other
8 necessary equipment.

9 (b) An itemization of charges for the following
10 merchandise as selected: the casket, an outside receptacle
11 and clothing.

12 (c) An itemization of fees or charges and the total
13 amount of cash advances made by the funeral director for
14 transportation, flowers, cemetery or crematory charges,
15 newspaper notices, clergy honorarium, transcripts,
16 telegrams, long distance telephone calls, music and such
17 other advances as authorized by the purchaser.

18 (d) An itemization of any other fees or charges not
19 included above.

20 (e) The total of the amount specified in subdivisions
21 (a), (b), (c), and (d).

22 If the charge for any of the above items is not known
23 at the time the contract is entered into, the funeral
24 director shall advise the purchaser of the charge therefor,
25 within a reasonable period after the information becomes
26 available. All prices charged for items covered under
27 Sections 7685 and 7685.1 shall be the same as those given
28 under such sections.

29 *SEC. 65.5. Section 7685.2 of the Business and*
30 *Professions Code is amended to read:*

31 7685.2. (a) No funeral director shall enter into a
32 contract for furnishing services or property in connection
33 with the burial or other disposal of ~~a dead human body~~
34 *remains* until he or she has first submitted to the potential
35 purchaser of ~~such those~~ services or property a written or
36 printed memorandum containing the following
37 *information*, provided ~~such that~~ information is available
38 at the time of execution of the contract:

39 ~~(a)~~

(1) The total charge for the funeral director's services and the use of his *or her* facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

~~(b)~~

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

~~(c)~~

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and ~~such~~ any other advances as authorized by the purchaser.

~~(d)~~

(4) An itemization of any other fees or charges not included above.

~~(e)~~

(5) The total of the amount specified in ~~subdivisions (a), (b), (c), and (d)~~ paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral director shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The department shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the

1 *cremation services; the name of the deceased; the name*
2 *of the funeral director in possession of the remains; the*
3 *name of the crematorium; and specific instructions*
4 *regarding the manner, location, and other pertinent*
5 *details regarding the disposition of cremated remains.*
6 *The form shall be signed and dated by the person*
7 *arranging for the cremation and the funeral director in*
8 *charge of providing service.*

9 (c) A funeral director entering into a contract to
10 furnish cremation services shall provide to the purchaser
11 of cremation services, either on the first page of the
12 contract for cremation services, or on a separate page
13 attached to the contract, a written or printed notice
14 containing the following information:

15 (1) **FOR MORE INFORMATION ON CEMETERY**
16 **AND CREMATION MATTERS, CONTACT:**
17 **Department of Consumer Affairs (800) 952-5210.**

18 (2) A person having the right to control disposition of
19 cremated remains may remove the remains in a durable
20 container from the place of cremation or interment,
21 pursuant to Section 7054.6 of the Health and Safety Code.

22 (3) If the cremated remains container cannot
23 accommodate all cremated remains of the deceased, the
24 crematory shall provide a larger cremated remains
25 container at no additional cost, or place the excess in a
26 second container that cannot easily come apart from the
27 first, pursuant to Section 8345 of the Health and Safety
28 Code.

29 SEC. 66. Section 7685.3 of the Business and
30 Professions Code is amended to read:

31 7685.3. Commencing January 1, 1994, the current
32 address, telephone number, and name of the
33 Department of Consumer Affairs, Cemetery and Funeral
34 Programs shall appear on the first page of any contract for
35 goods and services offered by a funeral director. At a
36 minimum, the information shall be in 8-point boldface
37 type and make this statement:

38
39 “**FOR MORE INFORMATION ON FUNERAL**
40 **MATTERS, CONTACT: DEPARTMENT OF**

1 CONSUMER AFFAIRS, (ADDRESS), (TELEPHONE
2 NUMBER).”

3

4 SEC. 67. Section 7686 of the Business and Professions
5 Code is amended to read:

6 7686. The program may suspend or revoke licenses,
7 after proper notice and hearing to the licensee, if the
8 licensee has been found guilty by the program of any of
9 the acts or omissions constituting grounds for disciplinary
10 action. The proceedings under this article shall be
11 conducted in accordance with Chapter 5 of Part 1 of
12 Division 3 of Title 2 of the Government Code, and the
13 program shall have all the powers granted therein.

14 SEC. 68. Section 7686.5 of the Business and
15 Professions Code is amended to read:

16 7686.5. All accusations against licensees shall be filed
17 with the department within two years after the
18 performance of the act or omission alleged as the ground
19 for disciplinary action; provided, however, that the
20 foregoing provision shall not constitute a defense to an
21 accusation alleging fraud or misrepresentation as a
22 ground for disciplinary action. The cause for disciplinary
23 action in such case shall not be deemed to have accrued
24 until discovery, by the program, of the facts constituting
25 the fraud or misrepresentation, and, in such case, the
26 accusation shall be filed within three years after such
27 discovery.

28 SEC. 69. Section 7687 of the Business and Professions
29 Code is amended to read:

30 7687. Upon receipt of a complaint, the program may
31 make or cause to be made such investigation as it deems
32 necessary.

33 SEC. 70. Section 7687.5 of the Business and
34 Professions Code is repealed.

35 SEC. 71. Section 7690 of the Business and Professions
36 Code is amended to read:

37 7690. The program may discipline every accused
38 licensee whose default has been entered or who has been
39 tried and found guilty, after formal hearing, of any act or
40 omission constituting a ground for disciplinary action.



1 Any of the following penalties may be imposed by the
2 program:

- 3 (a) Suspension of the disciplinary order.
- 4 (b) Reproval, public or private.
- 5 (c) Probation.
- 6 (d) Suspension of the right to practice.
- 7 (e) Revocation of the right to practice.
- 8 (f) Such other penalties as the program deems fit.

9 SEC. 72. Section 7693 of the Business and Professions
10 Code is amended to read:

11 7693. False or misleading advertising as a funeral
12 establishment, funeral director, or embalmer constitutes
13 a ground for disciplinary action.

14 SEC. 73. Section 7696 of the Business and Professions
15 Code is amended to read:

16 7696. Employment, directly or indirectly, of any
17 apprentice, agent, assistant, embalmer, employee or
18 other person, on part or full time, or on commission, for
19 the purpose of calling upon individuals or institutions by
20 whose influence human remains may be turned over to
21 a particular funeral director or embalmer constitutes a
22 ground for disciplinary action.

23 SEC. 74. Section 7697 of the Business and Professions
24 Code is amended to read:

25 7697. The buying, after a death or while a death is
26 impending, of funeral directing and embalming business
27 by the licensee, the licensee's agents, assistants or
28 employees, or the direct or indirect payment, or offer of
29 payment, of a commission by the licensee, the licensee's
30 agents, assistants or employees for the purpose of such
31 buying of business, constitutes a ground for disciplinary
32 action.

33 SEC. 75. Section 7700 of the Business and Professions
34 Code is amended to read:

35 7700. Using profane, indecent, or obscene language in
36 the course of the preparation for burial, removal, or other
37 disposition of, or during the funeral service for, human
38 remains, or within the immediate hearing of the family or
39 relatives of a deceased, whose remains have not yet been

1 interred or otherwise disposed of constitutes a ground for
2 disciplinary action.

3 SEC. 76. Section 7701 of the Business and Professions
4 Code is amended to read:

5 7701. Solicitation or acceptance by a licensee of any
6 commission or bonus or rebate in consideration of
7 recommending or causing human remains to be disposed
8 of in any crematory, mausoleum or cemetery constitutes
9 a ground for disciplinary action.

10 SEC. 77. Section 7702 of the Business and Professions
11 Code is amended to read:

12 7702. Using any casket or part of a casket which has
13 previously been used as a receptacle for, or in connection
14 with the burial or other disposition of, human remains
15 constitutes a ground for disciplinary action; provided,
16 however, this section shall not apply to exterior casket
17 hardware which is not sold to the purchaser, or where
18 same is reserved by contract.

19 SEC. 78. Section 7704 of the Business and Professions
20 Code is amended to read:

21 7704. Violation of any state law or municipal or county
22 ordinance or regulation affecting the handling, custody,
23 care or transportation of human remains constitutes a
24 ground for disciplinary action.

25 SEC. 79. Section 7706 of the Business and Professions
26 Code is amended to read:

27 7706. Refusing to surrender promptly the custody of
28 human remains, upon the express order of the person
29 lawfully entitled to its custody constitutes a ground for
30 disciplinary action.

31 SEC. 80. Section 7708 of the Business and Professions
32 Code is amended to read:

33 7708. The program, after a hearing, may deny the
34 application of a funeral establishment, funeral director,
35 embalmer, or apprentice embalmer on proof that the
36 applicant has committed acts or crimes constituting
37 grounds for denial of licensure under Section 480. The
38 record of conviction, or a certified copy thereof, shall be
39 conclusive evidence of the conviction.



1 SEC. 81. Section 7709 of the Business and Professions
2 Code is amended to read:

3 7709. A plea or verdict of guilty or a conviction
4 following a plea of nolo contendere is deemed to be a
5 conviction within the meaning of this article. The
6 program may order the license suspended or revoked, or
7 may decline to issue a license, when the time for appeal
8 has elapsed, or the judgment of conviction has been
9 affirmed on appeal or when an order granting probation
10 is made suspending the imposition of sentence,
11 irrespective of a subsequent order under the provisions
12 of Section 1203.4 of the Penal Code allowing such person
13 to withdraw his plea of guilty and to enter a plea of not
14 guilty, or setting aside the verdict of guilty, or dismissing
15 the accusation, information or indictment.

16 SEC. 82. Section 7711 of the Business and Professions
17 Code is amended to read:

18 7711. When a funeral establishment, funeral director
19 or embalmer has had his, or her, or its license suspended,
20 canceled, or revoked by the program, the program, upon
21 written application by the licensee affected, upon not less
22 than 10 days' notice to all parties of record in the
23 particular case, and after hearing all evidence offered in
24 support of and in opposition to that application, may, in
25 its discretion, and upon those terms as it may deem just,
26 reinstate the applicant.

27 SEC. 83. Section 7715 of the Business and Professions
28 Code is amended to read:

29 7715. Any person, partnership, association,
30 corporation, or other form of organization, or any agent
31 or representative thereof, who violates any of the
32 provisions of this chapter is guilty of a misdemeanor.

33 SEC. 84. Section 7718.5 of the Business and
34 Professions Code is amended to read:

35 7718.5. Every person as an individual, as a partner in
36 a partnership or as an officer or employee of a
37 corporation, association or other organization, who,
38 without a license, holds himself or herself out as a funeral
39 director, is guilty of a misdemeanor.

1 SEC. 85. Section 7725 of the Business and Professions
2 Code is amended to read:

3 7725. Licenses issued under this chapter shall expire
4 at 12 p.m. on January 31, 1969, and thereafter at 12 p.m.
5 on January 31 of each year, if not in each instance
6 renewed. To renew an unexpired license, the holder
7 thereof shall on or before the date on which it would
8 otherwise expire, apply for renewal on a form prescribed
9 by the program, and pay the renewal fee prescribed by
10 this chapter.

11 On or before the 10th day of December of each year,
12 commencing in 1968, the program shall mail to each
13 licensed funeral establishment, funeral director, and
14 embalmer, addressed to him or her at his or her last
15 known address, a notice that a renewal fee is due and
16 payable.

17 SEC. 86. Section 7725.2 of the Business and
18 Professions Code is amended to read:

19 7725.2. Except as otherwise provided in this article, a
20 license which has expired may be renewed at any time
21 within five years after its expiration on filing of an
22 application for renewal on a form prescribed by the
23 program and payment of the renewal fee in effect on the
24 last regular renewal date. If the license is not renewed
25 within 30 days after its expiration the licensee, as a
26 condition precedent to renewal, shall also pay the
27 delinquency fee prescribed by this chapter. Renewal
28 under this section shall be effective on the date on which
29 the application is filed, on the date on which the renewal
30 fee is paid, or on the date on which the delinquency fee,
31 if any, is paid, whichever last occurs. If so renewed, the
32 license shall continue in effect through the date provided
33 in Section 7725 which next occurs after the effective date
34 of the renewal, when it shall expire if it is not again
35 renewed.

36 If a license is not renewed within one year following its
37 expiration, the program may require as a condition of
38 renewal that the holder of the license pass an examination
39 on the appropriate subjects provided by this chapter.



1 SEC. 87. Section 7725.5 of the Business and
2 Professions Code is amended to read:

3 7725.5. A license which is not renewed within five
4 years after its expiration may not be renewed, restored,
5 reissued, or reinstated thereafter. The holder of the
6 expired license may obtain a new license only if the
7 holder pays all of the fees, and meets all of the
8 requirements, other than requirements relating to
9 education, set forth in this chapter for obtaining an
10 original license, except that the program may issue a new
11 license to the holder without an examination if the holder
12 establishes to the program's satisfaction that, with due
13 regard for the public interest, the holder is qualified to
14 engage in the activity in which the holder again seeks to
15 be licensed. The program may, by appropriate
16 regulation, provide for the waiver or refund of all or any
17 part of the application fee in those cases in which a license
18 is issued without an examination under this section.

19 The provisions of this section do not apply to
20 certificates of apprenticeship.

21 SEC. 88. Section 7727 of the Business and Professions
22 Code is amended to read:

23 7727. On or before the tenth day of each month, the
24 department shall pay into the State Treasury and report
25 to the State Controller all the fees received for the
26 program. The fees shall be received by the State
27 Treasurer and placed in the State Funeral Directors and
28 Embalmers Fund, which fund is available for
29 expenditures necessary for the proper administration of
30 this chapter.

31 SEC. 89. Section 7735 of the Business and Professions
32 Code is amended to read:

33 7735. No funeral establishment licensed under the
34 laws of the State of California, or the agents or employees
35 of a funeral establishment, shall enter into or solicit any
36 preneed arrangement, contract or plan, hereinafter
37 referred to as "contract," requiring the payment to the
38 licensee of money or the delivery to the licensee of
39 securities to pay for the final disposition of human
40 remains or for funeral services or for the furnishing of

1 personal property or funeral merchandise, wherein the
2 use or delivery of those services, property or merchandise
3 is not immediately required, unless the contract requires
4 that all money paid directly or indirectly and all securities
5 delivered under that agreement or under any agreement
6 collateral thereto, shall be held in trust for the purpose for
7 which it was paid or delivered until the contract is
8 fulfilled according to its terms; provided, however, that
9 any payment made or securities deposited pursuant to
10 this article shall be released upon the death of the person
11 for whose benefit the trust was established as provided in
12 Section 7737. The income from the corpus may be used
13 to pay for a reasonable annual fee for administering the
14 trust, including a trustee fee, to be determined by the
15 program, and to establish a reserve of not to exceed 10
16 percent of the corpus as a revocation fee in the event of
17 cancellation on the part of the beneficiary.

18 None of the trust corpus shall be used for payment of
19 any commission nor shall any of the trust corpus be used
20 for other expenses of trust administration.

21 SEC. 90. Section 7737.3 of the Business and
22 Professions Code is amended to read:

23 7737.3. All commingled preneed trust funds held by
24 a funeral establishment shall be subject to an annual,
25 independent certified financial audit with a copy of the
26 audit to be submitted to the program for review within
27 120 days of the close of the fund's fiscal year. Any findings
28 of noncompliance with existing law regarding preneed
29 trust funds shall be identified by the auditor in a separate
30 report for review and action by the program. Audits and
31 reports of noncompliance shall be filed simultaneously.

32 SEC. 91. Section 7737.5 of the Business and
33 Professions Code is amended to read:

34 7737.5. A trustee may deposit the corpus of the trust
35 in any financial institution insured by the Federal Deposit
36 Insurance Corporation.

37 SEC. 92. Section 7740 of the Business and Professions
38 Code is amended to read:

39 7740. The program is authorized to enforce of its own
40 initiative the provisions of this article and may adopt such

1 rules and regulations as in its opinion may be necessary to
2 perform such duties and to safeguard the trust funds
3 subject to this chapter.

4 SEC. 93. Section 7740.5 of the Business and
5 Professions Code is amended to read:

6 7740.5. A funeral establishment shall pay to the
7 program the fee fixed by this chapter for filing with the
8 program any report on preneed trust funds required by
9 rules and regulations of the program adopted pursuant to
10 Section 7740.

11 SEC. 94. Section 8556 of the Business and Professions
12 Code is amended to read:

13 8556. (a) Licensed contractors acting in their
14 capacity as such, may remove and replace any structure
15 or portions of a structure damaged by wood-destroying
16 pests or organisms if such work is incidental to other work
17 being performed on the structure involved or if such
18 work has been identified by a structural pest control
19 inspection report. Licensed contractors acting in their
20 capacity as such may apply wood preservatives directly
21 to end cuts and drill holes of pressure treated wood, and
22 to foundation wood as required by building codes, as well
23 as to fencing and decking, by brush, dip, or spray method
24 and need not obtain a structural pest control operator's
25 license under this chapter for performance of that work,
26 provided a disclosure in the following form is submitted
27 to the customer in writing: "The application of a wood
28 preservative is intended to prevent the establishment
29 and flourishing of organisms which can deteriorate wood.
30 If you suspect pest infestation or infection, contact a
31 registered structural pest control company prior to the
32 application of a wood preservative."

33 These exemptions do not authorize the performance of
34 any other acts defined in Section 8505.

35 (b) A licensed contractor may contract for the
36 performance of any soil treatment pest control work to
37 eliminate, exterminate, control, or prevent infestations or
38 infections of pests or organisms in the ground beneath or
39 adjacent to any existing building or structure or in or
40 upon any site upon which any building or structure is to

1 be constructed, but the actual performance of any such
2 work must be done by a registered structural pest control
3 company.

4 SEC. 95. Section 9603 of the Business and Professions
5 Code is repealed.

6 SEC. 96. Section 9603 is added to the Business and
7 Professions Code, to read:

8 9603. The following terms as used in this chapter shall
9 have the meanings expressed in this section:

10 (a) "Department" means the Department of
11 Consumer Affairs.

12 (b) "Director" means the Director of Consumer
13 Affairs.

14 (c) "Program" means the Cemetery Program.

15 SEC. 97. Section 9604 of the Business and Professions
16 Code is amended to read:

17 9604. A cemetery broker is a person who, other than
18 in reference to an occasional sale, sells or offers for sale,
19 buys, or offers to buy, lists, leases or offers to lease, or
20 solicits, or negotiates the purchase or sale, lease or
21 exchange of cemetery property or interment services, or
22 interest therein, for his or her own account or for another.

23 SEC. 98. Section 9605 of the Business and Professions
24 Code is amended to read:

25 9605. A cemetery salesperson is a natural person who,
26 other than in reference to an occasional sale, is employed
27 by a cemetery broker to sell, or offer for sale, list or offer
28 to list, or to buy, or to offer to buy, or to lease, or offer to
29 lease, or to solicit, or to negotiate the purchase or sale or
30 lease or exchange of cemetery property or interment
31 services, or any interest therein, for his or her own
32 account or for another.

33 SEC. 99. Section 9625 is added to the Business and
34 Professions Code, to read:

35 9625. There is in the department, the Cemetery
36 Program, under the supervision and control of the
37 director.

38 The director may appoint a chief at a salary to be fixed
39 and determined by the director, with the approval of the
40 Director of Finance. The duty of enforcing and

1 administering this chapter is vested in the chief, and he
2 or she is responsible to the director therefor. The chief
3 shall serve at the pleasure of the director.

4 SEC. 100. Section 9626 of the Business and Professions
5 Code is repealed.

6 SEC. 101. Section 9626.5 of the Business and
7 Professions Code is repealed.

8 SEC. 102. Section 9627 of the Business and Professions
9 Code is repealed.

10 SEC. 103. Section 9628 of the Business and Professions
11 Code is repealed.

12 SEC. 104. Section 9629 of the Business and Professions
13 Code is repealed.

14 SEC. 105. Section 9630 of the Business and Professions
15 Code is amended to read:

16 9630. The program may establish necessary rules and
17 regulations for the administration and enforcement of
18 this act and the laws subject to its jurisdiction and
19 prescribe the form of statements and reports provided for
20 in this act. The rules and regulations shall be adopted,
21 amended, or repealed in accordance with the provisions
22 of the Administrative Procedure Act.

23 SEC. 106. Section 9630.5 of the Business and
24 Professions Code is repealed.

25 SEC. 107. Section 9631 of the Business and Professions
26 Code is amended to read:

27 9631. In the enforcement of this act and the laws
28 subject to its jurisdiction, the program has all the powers
29 and is subject to all the responsibilities vested in and
30 imposed upon the head of a department under Chapter
31 2 (commencing with Section 11150) of Part 1 of Division
32 3 of Title 2 of the Government Code.

33 SEC. 108. Section 9650 of the Business and Professions
34 Code is amended to read:

35 9650. (a) Each cemetery authority shall file with the
36 program annually, on or before June 1, or within five
37 months after close of their fiscal year provided approval
38 has been granted by the program as provided for in
39 Section 9650.1, a written report in form prescribed by the
40 program setting forth the following:

1 (1) The number of square feet of grave space and the
2 number of crypts and niches sold or disposed of under
3 endowment care by specific periods as set forth in the
4 form prescribed.

5 (2) The amount collected and deposited in both the
6 general and special endowment care funds segregated as
7 to the amounts for crypts, niches and grave space by
8 specific periods as set forth either on the accrual or cash
9 basis at the option of the cemetery authority.

10 (3) A statement showing separately the total amount
11 of the general and special endowment care funds
12 invested in each of the investments authorized by law and
13 the amount of cash on hand not invested, which
14 statement shall actually show the financial condition of
15 the funds.

16 (4) A statement showing separately the location,
17 description, and character of the investments in which
18 the special endowment care funds are invested. The
19 statement shall show the valuations of any securities held
20 in the endowment care fund as valued pursuant to
21 Section 9659.

22 (5) A statement showing the transactions entered into
23 between the corporation or any officer, employee or
24 stockholder thereof and the trustees of the endowment
25 care funds with respect to those endowment care funds.
26 The statement shall show the dates, amounts of the
27 transactions, and shall contain a statement of the reasons
28 for those transactions.

29 (b) The report shall be verified by the president or
30 vice president and one other officer of the cemetery
31 corporation. The information submitted pursuant to
32 paragraphs (2), (3), (4), and (5) shall be accompanied by
33 an annual audit report of the endowment care fund and
34 special care fund signed by a certified public accountant
35 or public accountant. The scope of the audit shall include
36 the inspection, review, and audit of the general purpose
37 financial statements of the endowment care fund and
38 special care fund, which shall include the balance sheet,
39 the statement of revenues, expenditures, and changes in
40 fund balance.



1 (c) If a cemetery authority files a written request prior
2 to the date the report is due, the program may, in its
3 discretion, grant an additional 30 days within which to file
4 the report.

5 SEC. 109. Section 9650.1 of the Business and
6 Professions Code is amended to read:

7 9650.1. Each cemetery authority requesting a change
8 of filing date of the endowment care fund report from a
9 calendar year to a fiscal year or a change in fiscal year shall
10 file a petition with the program prior to the close of the
11 year of request. The program may approve such petition
12 provided that no report shall be for a period of more than
13 12 months.

14 SEC. 110. Section 9650.2 of the Business and
15 Professions Code is amended to read:

16 9650.2. The report shall state the name of the trustee
17 or trustees of the endowment care fund. Any change of
18 trustee shall be reported to the program within a period
19 of 30 days after the change is made.

20 SEC. 110.5. Section 9650.3 of the Business and
21 Professions Code is amended to read:

22 9650.3. A copy of each annual audit report shall be
23 transmitted to the program and shall be a public record.
24 It shall also be open for public inspection at the offices of
25 the cemetery authority during normal business hours. If
26 the cemetery authority does not maintain offices in the
27 county in which its cemetery is located, it shall file a copy
28 of the annual audit report with the county clerk of the
29 county, which shall be subject to public inspection.

30 SEC. 111. Section 9650.4 of the Business and
31 Professions Code is amended to read:

32 9650.4. (a) Any cemetery authority that does not file
33 its report within the time prescribed by Section 9650 may
34 be assessed a fine by the program in an amount not to
35 exceed four hundred dollars (\$400) per month for a
36 maximum of five months. The amount of the fine shall be
37 established by regulation in accordance with the
38 Administrative Procedure Act (Chapter 3.5
39 (commencing with Section 11340) of Part 1 of Division 3
40 of Title 2 of the Government Code). Failure to pay the

1 fine within 15 days after receipt of written notification of
2 the assessment or, where a timely request for waiver or
3 reduction of the fine has been filed, within 15 days after
4 receipt of written notification of the program's decision
5 in the matter, shall be cause for disciplinary action.

6 (b) A cemetery authority may request waiver or
7 reduction of a fine by making a written request therefor.
8 The request shall be postmarked within the time
9 specified above for payment of the fine and shall be
10 accompanied by a statement showing good cause for the
11 request.

12 (c) The program may waive or reduce the fine where
13 a timely request is made and where it determines, in its
14 discretion, that the cemetery authority has made a
15 sufficient showing of good cause for the waiver or
16 reduction.

17 SEC. 112. Section 9651 of the Business and Professions
18 Code is amended to read:

19 9651. The program shall examine the reports filed
20 with it as to their compliance with the requirements of
21 the Health and Safety Code as to the amount of
22 endowment care funds collected and as to the manner of
23 investment of such funds.

24 SEC. 113. Section 9652 of the Business and Professions
25 Code is amended to read:

26 9652. The program shall examine the endowment
27 care funds of a cemetery authority:

28 (a) Whenever it deems necessary and at least once
29 every five years;

30 (b) Whenever the cemetery authority in charge of
31 endowment care funds fails to file the report required by
32 this article; or

33 (c) Whenever the accountant or auditor qualifies his
34 or her certification of the report that is prepared and
35 signed by a certified public accountant licensed in the
36 state and prepared in accordance with Section 9650.

37 (d) The reasonable and necessary cost of the
38 examination performed under subdivision (b) or (c) shall
39 be paid by the cemetery authority.

1 A certified copy of the actual costs, or a good faith
2 estimate of the costs where actual costs are not available,
3 signed by the director or his or her designee, shall be
4 prima facie evidence of the reasonable and necessary
5 costs of the examination.

6 The actual and necessary expense of the examination
7 under subdivision (a) shall, in the discretion of the
8 program, be paid by the cemetery authority whenever
9 the examination requires more than one day and the need
10 for continuing the examination is directly related to
11 identified omissions and errors in the management of
12 endowment care funds.

13 SEC. 114. Section 9652.1 of the Business and
14 Professions Code is amended to read:

15 9652.1. If any cemetery authority refuses to pay such
16 expenses, the program shall refuse it a certificate of
17 authority and shall revoke any existing certificate of
18 authority. All examination expense moneys collected by
19 the program shall be paid into the State Treasury to the
20 credit of the Cemetery Fund.

21 SEC. 115. Section 9653 of the Business and Professions
22 Code is amended to read:

23 9653. (a) In making the examination the program:

24 (1) Shall have free access to the books and records
25 relating to the trust funds, their collection and
26 investment, and the number of graves, crypts and niches
27 under endowment care.

28 (2) Shall inspect and examine the trust funds to
29 determine their condition and the existence of the
30 investments.

31 (3) Shall ascertain if the cemetery corporation has
32 complied with all the laws applicable to trust funds.

33 (b) Upon request by the Department of Consumer
34 Affairs, a cemetery authority shall provide records to
35 substantiate the expenditures of the income of the trust
36 funds. If a cemetery authority fails to reasonably comply
37 with this request, the department may have access to
38 books, records, and accounts of a cemetery authority for
39 purposes of ascertaining compliance with applicable
40 laws.

1 SEC. 116. Section 9654 of the Business and Professions
2 Code is amended to read:

3 9654. The program may administer oaths and
4 examine under oath any person relative to the
5 endowment care fund. Such examination shall be
6 conducted in the principal office of the person or body in
7 charge of the endowment care fund and shall be private.

8 SEC. 117. Section 9655 of the Business and Professions
9 Code is amended to read:

10 9655. If any examination made by the program, or any
11 report filed with it, shows that there has not been
12 collected and deposited in the endowment care funds the
13 minimum amounts required by the Health and Safety
14 Code since September 19, 1939, the program shall require
15 such cemetery corporation to comply with Sections 8743
16 and 8744 of the Health and Safety Code.

17 SEC. 118. Section 9656 of the Business and Professions
18 Code is amended to read:

19 9656. Whenever the program finds, after notice and
20 hearing, that any endowment care funds have been
21 invested in violation of the Health and Safety Code, it
22 shall by written order mailed to the person or body in
23 charge of the fund require the reinvestment of the funds
24 in conformity to that code within a period which shall be
25 not less than two years if the investment was made prior
26 to October 1, 1949, not less than six months if the
27 investment was made on or after October 1, 1949, and
28 before the effective date of the amendment of this section
29 by the 1969 Regular Session of the Legislature, and not
30 less than 30 days if the investment is made on or after the
31 effective date of the amendment. The period may be
32 extended by the program in its discretion.

33 SEC. 119. Section 9656.1 of the Business and
34 Professions Code is amended to read:

35 9656.1. The superior court of the county in which the
36 principal office of the cemetery authority in charge of
37 endowment care funds is located shall, upon the filing by
38 the program of a verified application showing any of the
39 following conditions hereinafter enumerated to exist,
40 issue its order vesting title to any endowment care funds

1 of a cemetery authority in the program, and directing the
2 program forthwith to take possession of all necessary
3 books, records, property, real and personal, and assets,
4 and to conduct as conservator, the management of such
5 endowment care funds, or so much thereof as to the
6 program may seem appropriate:

7 (a) That the cemetery authority has refused to submit
8 its books, papers, accounts, or affairs to the reasonable
9 examination of the program.

10 (b) That the cemetery authority has neglected to
11 observe an order of the program to make good within the
12 time prescribed by law any deficiency in its investments
13 of endowment care funds.

14 (c) That the cemetery authority is found, after an
15 examination, to be in such condition that its further
16 management of its endowment care funds will be
17 hazardous to its members, plotters, or to the public.

18 (d) That the cemetery authority has violated its
19 articles of incorporation or any law of the state.

20 (e) That any officer, director, agent, servant or
21 employee of the cemetery authority person refuses to be
22 examined under oath relative to the endowment care
23 funds thereof.

24 (f) That any person has embezzled or otherwise
25 wrongfully diverted any of the endowment care funds of
26 the cemetery authority.

27 The order shall continue in force and effect until, on the
28 application either of the program or of the cemetery
29 authority, it shall, after a full hearing, appear to the court
30 that the ground for the order does not exist or has been
31 removed and that the cemetery authority can properly
32 resume title and possession of its property and the
33 management of its endowment care funds.

34 SEC. 120. Section 9656.2 of the Business and
35 Professions Code is amended to read:

36 9656.2. When it has been alleged by verified petition
37 pursuant to Section 9652 or when the program on its own
38 investigation determines that there is probable cause to
39 believe that any of the conditions set forth in Section
40 9656.1 exist or that irreparable loss and injury to the

1 endowment care funds of a cemetery authority has
2 occurred or may occur unless the program so acts
3 immediately, the program, without notice and before
4 applying to the court for any order, may take possession
5 of the endowment care funds and the books, records, and
6 accounts relating thereto of the cemetery authority, and
7 retain possession subject to the order of the court. Any
8 person having possession of and refusing to deliver any
9 assets, books or records of a cemetery authority against
10 which a seizure order has been issued by the program
11 shall be guilty of a misdemeanor and punishable by a fine
12 not exceeding one thousand dollars (\$1,000) or
13 imprisonment not exceeding one year, or by both that
14 fine and imprisonment.

15 SEC. 121. Section 9656.3 of the Business and
16 Professions Code is amended to read:

17 9656.3. Whenever the program makes any seizure as
18 provided in Section 9656.2, it shall, on demand of the
19 program, be the duty of the sheriff of any county of this
20 state, and of the police department of any municipal
21 corporation therein, to furnish the department with
22 deputies, patrolmen or officers as may be necessary to
23 assist the program in making and enforcing that seizure.

24 SEC. 122. Section 9656.4 of the Business and
25 Professions Code is amended to read:

26 9656.4. Immediately after effecting a seizure
27 pursuant to Section 9656.2, the program shall institute a
28 proceeding as provided for in Section 9656.1.

29 SEC. 122.5. Section 9656.45 is added to the Business
30 and Professions Code, to read:

31 9656.45. Notwithstanding any other provision of law,
32 the department shall be the custodian of all moneys
33 collected or surrendered pursuant to Sections 9656.1 and
34 9656.2. As custodian, the department may deposit those
35 moneys, or any part thereof, without court approval, in
36 any of the following: a bank or trust company legally
37 authorized and empowered by the state to act as a trustee
38 in the handling of trust funds; in a centralized State
39 Treasury system bank account; or in funds administered
40 by the State Treasurer.

1 SEC. 123. Section 9656.5 of the Business and
2 Professions Code is amended to read:

3 9656.5. The program shall maintain, regulate,
4 operate, and control the property situated in Amador
5 County, referred to as the Elkin Property in Judicial
6 Council Coordination Proceedings Nos. 1814 and 1817,
7 Order Re Proposed Neptune Memorial, Disposition of
8 the Elkin Property, and Order Re Final Disposition of
9 Ashes of the Sacramento Superior Court, and legally
10 described as “Parcel 16-B as shown on the certain Record
11 or Survey for Eugene S. Lowrance, et ux, filed for record
12 May 17, 1971, in Book 17 of Maps and Plats at page 87,
13 Amador County Records.” The program shall administer
14 and supervise endowment funds established by the court
15 for the property. The program shall exercise the authority
16 granted by this section for the sole purpose of protecting
17 the human remains resting on the property and
18 preserving the property in its natural state.

19 SEC. 124. Section 9657 of the Business and Professions
20 Code is amended to read:

21 9657. The program is authorized to bring action to
22 enforce the provisions of the law subject to its jurisdiction,
23 in which actions it shall be represented by the Attorney
24 General.

25 SEC. 125. Section 9658 of the Business and Professions
26 Code is amended to read:

27 9658. The program shall enforce and administer Part
28 1 (commencing with Section 8100), Part 3 (commencing
29 with Section 8250), and Part 5 (commencing with Section
30 9501) of Division 8 of the Health and Safety Code.

31 SEC. 126. Section 9659 of the Business and Professions
32 Code is amended to read:

33 9659. In any report to the program all bonds,
34 debentures or other evidences of debt held by a cemetery
35 corporation if amply secured and if not in default as to
36 principal or interest may be valued as follows:

37 (a) If purchased at par at the par value.

38 (b) If purchased above or below par on the basis of the
39 purchase price adjusted so as to bring the value to par at

1 maturity and so as to yield the effective rate of interest on
2 the basis at which the purchase was made.

3 (c) In such valuation the purchase price shall in no
4 case be taken at a higher figure than the actual market
5 value at the time of purchase.

6 SEC. 127. Section 9662 of the Business and Professions
7 Code is amended to read:

8 9662. The current address, telephone number, and
9 name of the program shall appear on the first page of any
10 contract for goods and services offered by a cemetery
11 authority or crematory. At a minimum, the information
12 shall be in 8-point boldface type and make the following
13 statement:

14
15 “FOR MORE INFORMATION ON CEMETERY AND
16 CREMATION MATTERS, CONTACT: THE
17 DEPARTMENT OF CONSUMER AFFAIRS,
18 (ADDRESS), (TELEPHONE NUMBER).”

19
20 A cemetery authority or crematory operator shall
21 supply the above information in writing when presenting
22 a sales contract to any individual.

23 SEC. 128. Section 9675 of the Business and Professions
24 Code is amended to read:

25 9675. This article does not apply to the following cases
26 or to the following persons:

27 (a) A person acting with reference to an occasional
28 sale of his or her own property.

29 (b) The regular officers of a cemetery corporation
30 holding a certificate of authority acting with reference to
31 the corporation’s property when they receive no special
32 compensation therefor.

33 (c) Persons making an occasional sale under a duly
34 executed power of attorney from others.

35 (d) The services rendered by an attorney at law in
36 performing his or her duties in that capacity.

37 (e) A receiver, trustee in bankruptcy, any person
38 acting under orders of any court, or a trustee selling
39 under a deed of trust.

1 (f) A real estate broker or real estate salesperson,
2 acting in that capacity in connection with the sale, lease
3 or exchange of real property, or interest therein, when
4 the transfer of cemetery property is purely incidental to
5 the sale, lease or exchange of real property.

6 SEC. 129. Section 9676 of the Business and Professions
7 Code is amended to read:

8 9676. No person shall engage in the business of, act in
9 the capacity of, advertise or assume to act as, a cemetery
10 broker or cemetery salesperson in this state without first
11 obtaining a license from the program.

12 SEC. 130. Section 9677 of the Business and Professions
13 Code is amended to read:

14 9677. Any act other than an occasional sale of buying
15 or selling, leasing or exchanging cemetery property or
16 interment services of or for another or on his or her own
17 account, or offering for another or for his or her own
18 account to buy or sell, lease or exchange cemetery
19 property or interment services, or negotiating the
20 purchase or sale, lease or exchange of cemetery property
21 or interment services, or negotiating the purchase or sale,
22 lease or exchange, or listing or soliciting, or negotiating a
23 loan on or leasing of cemetery property or interment
24 services constitutes the person making such offer, sale or
25 purchase, exchange or lease, or negotiating the loan, or
26 listing or soliciting, a cemetery broker or cemetery
27 salesperson.

28 SEC. 131. Section 9678 of the Business and Professions
29 Code is amended to read:

30 9678. No person engaged in the business or acting in
31 the capacity of a broker or a salesperson within this state
32 shall bring or maintain any action in the courts of this state
33 for the collection of compensation for the performance of
34 any of the acts mentioned in this article without alleging
35 and proving that he or she was a duly licensed cemetery
36 broker or cemetery salesperson at the time the alleged
37 cause of action arose.

38 SEC. 132. Section 9679 of the Business and Professions
39 Code is amended to read:

1 9679. No cemetery broker shall employ or
2 compensate, directly or indirectly, any person for
3 performing any of the acts within the scope of this article
4 who is not a licensed cemetery broker, or a cemetery
5 salesperson licensed under the cemetery broker
6 employing or compensating him or her. No cemetery
7 salesperson shall be employed by or accept compensation
8 from any person other than the cemetery broker under
9 whom he or she is at the time licensed.

10 No salesperson shall pay any compensation for
11 performing any of the acts within the scope of this article
12 to any licensee except through the cemetery broker
13 under whom he or she is at the time licensed.

14 For a violation of any of the provisions of this section,
15 the program may temporarily suspend or permanently
16 revoke the license of the cemetery licensee in accordance
17 with the provisions of this act relating to disciplinary
18 proceedings.

19 SEC. 133. Section 9680 of the Business and Professions
20 Code is amended to read:

21 9680. It is a misdemeanor, punishable by a fine not
22 exceeding one hundred dollars (\$100) for each offense,
23 for any person, whether obligor, escrowholder or
24 otherwise, to pay or deliver to anyone a compensation for
25 performing any of the acts within the scope of this article
26 who is not known to be or who does not present evidence
27 to such payer that he or she is a licensed cemetery broker
28 at the time such compensation is earned.

29 For violation of any of the provisions of this section, the
30 program may temporarily suspend or permanently
31 revoke the license of the cemetery licensee in accordance
32 with the provisions of this act relating to disciplinary
33 proceedings.

34 SEC. 134. Section 9681 of the Business and Professions
35 Code is amended to read:

36 9681. Any person acting as a cemetery broker or
37 cemetery salesperson without a license, or who advertises
38 so as to indicate he or she is a cemetery broker without
39 being so licensed, is guilty of a misdemeanor. If that

1 person is a corporation, it shall be punished by a fine of not
2 to exceed five thousand dollars (\$5,000).

3 SEC. 135. Section 9682 of the Business and Professions
4 Code is amended to read:

5 9682. Any cemetery salesperson or cemetery broker
6 who sells, causes to be sold, or offers for sale any cemetery
7 property upon the promise, guarantee or representation
8 to the purchaser that the same may be resold or
9 repurchased at a financial profit is guilty of a
10 misdemeanor.

11 For violation of any of the provisions of this section, the
12 program may temporarily suspend or permanently
13 revoke the license of the cemetery salesperson or
14 cemetery broker in accordance with the provisions of this
15 act relating to disciplinary proceedings.

16 No violation of any of the provisions of this section by
17 any cemetery salesperson or employee of any licensed
18 cemetery broker shall cause the suspension or revocation
19 of the license of the employer of the salesperson or
20 employee unless it appears upon a hearing by the
21 program that the employer had guilty knowledge of such
22 violation.

23 SEC. 136. Section 9683 of the Business and Professions
24 Code is amended to read:

25 9683. Every officer, agent or employee of any
26 company, and every other person who knowingly
27 authorizes, directs or aids in the publication,
28 advertisement, distribution, or circularization of any false
29 statement or representation concerning any cemetery or
30 cemetery brokerage business and every person who, with
31 knowledge that any advertisement, pamphlet,
32 prospectus or letter concerning any cemetery brokerage
33 business or any written statement that is false or
34 fraudulent, issues, circulates, publishes or distributes the
35 same, or causes it to be issued, circulated, published or
36 distributed, or who in any other respect willfully violates
37 or fails, omits or neglects to obey, observe or comply with
38 any order, permit, decision, demand or requirement of
39 the program under the provisions of this act relating to
40 cemetery brokerage, is guilty of a misdemeanor, and, if a

1 cemetery licensee, he or she shall be held to trial by the
2 program for a suspension or revocation of this cemetery
3 license, as provided in the provisions of this act relating
4 to disciplinary proceedings.

5 SEC. 137. Section 9684 of the Business and Professions
6 Code is amended to read:

7 9684. Each cemetery broker, other than a cemetery
8 corporation holding a certificate of authority, and each
9 cemetery salesperson must include in any advertising a
10 statement that he or she is acting as a cemetery broker or
11 cemetery salesperson.

12 SEC. 138. Section 9686 of the Business and Professions
13 Code is amended to read:

14 9686. Any person, other than a person making an
15 occasional sale, who advertises cemetery property for sale
16 or exchange, without being duly licensed as a cemetery
17 broker or a cemetery salesperson, or without possessing
18 a certificate of authority as a cemetery corporation, is
19 guilty of a misdemeanor. If such person is a corporation,
20 it shall be punished by a fine of not to exceed five
21 thousand dollars (\$5,000).

22 SEC. 139. Section 9700 of the Business and Professions
23 Code is amended to read:

24 9700. Application for license as a cemetery broker
25 shall be made in writing on the form prescribed by the
26 program and filed at the principal office of the program.
27 The application shall be accompanied by the original
28 cemetery broker's license fee.

29 SEC. 140. Section 9700.5 of the Business and
30 Professions Code is amended to read:

31 9700.5. The program shall not grant an original
32 cemetery broker's license to any person who is not a
33 resident of this state. Change of residence to another state
34 shall terminate the license.

35 SEC. 141. Section 9700.6 of the Business and
36 Professions Code is amended to read:

37 9700.6. The program shall not grant an original
38 cemetery broker's license to any person who has not held
39 a cemetery salesperson's license for at least two years
40 prior to the date of his or her application for the broker's

1 license, and during that time was not actively engaged in
2 the business of a cemetery salesperson except that if an
3 applicant for a cemetery broker's license having at least
4 the equivalent of two years' general cemetery experience
5 files a written petition with the program setting forth his
6 or her qualifications and experience and the program
7 approves, he or she may be issued a cemetery broker's
8 license immediately upon passing the appropriate
9 examinations and satisfying the other requirements of
10 this article.

11 SEC. 142. Section 9701 of the Business and Professions
12 Code is amended to read:

13 9701. Application for license as a cemetery
14 salesperson shall be made in writing on the form
15 prescribed by the program and filed at the principal
16 office of the program. The application shall be signed by
17 the applicant, and shall be accompanied by the cemetery
18 salesperson's license fee.

19 SEC. 143. Section 9702.1 of the Business and
20 Professions Code is amended to read:

21 9702.1. The program shall investigate the
22 qualifications of the applicants. Except as otherwise
23 prescribed in this article, it may issue the license applied
24 for to an applicant on a showing satisfactory to it that the
25 following facts exist:

26 (a) The applicant is properly qualified to perform the
27 duties of a cemetery broker or salesperson.

28 (b) Granting the license will not be against public
29 interest.

30 (c) The applicant intends actively and in good faith to
31 carry on the business of a cemetery broker or a cemetery
32 salesperson.

33 (d) In the case of a corporate applicant, the articles of
34 incorporation permit it to act as a cemetery broker.

35 (e) In the case of an association or copartnership
36 applying for such a license its articles of association or
37 agreement of partnership authorize it to act as a
38 cemetery broker.

39 (f) The license is not being secured for the purpose of
40 permitting the applicant to advertise as a cemetery

1 broker or salesperson without actually engaging in such
2 business.

3 (g) The applicant has not committed acts or crimes
4 constituting grounds for denial of licensure under Section
5 480.

6 SEC. 144. Section 9702.2 of the Business and
7 Professions Code is amended to read:

8 9702.2. All cemetery brokers who do not possess a
9 certificate of authority shall in addition to the
10 requirements of this chapter file with the program a
11 satisfactory bond to the people of the State of California,
12 duly executed by a sufficient surety or sureties to be
13 approved by the program, in the amount of ten thousand
14 dollars (\$10,000). That bond shall be conditioned for the
15 honest and faithful performance by such broker and his
16 or her salespersons and employees of any undertaking as
17 a licensed cemetery broker or salesperson or employee of
18 said broker at any time when licensed under this chapter,
19 and the strict compliance with the provisions of this
20 chapter and of Division 8 of the Health and Safety Code
21 relating to cemeteries, and the honest and faithful
22 application of all funds received. That bond shall be
23 further conditioned upon the payment of all damages
24 suffered by any person damaged or defrauded by reason
25 of the violation of any of the provisions of this chapter or
26 of Division 8 of the Health and Safety Code relating to
27 cemeteries, or by reason of the violation of the obligation
28 of such broker as an agent, as such obligations are laid
29 down by the Civil Code of the State of California, or by
30 reason of any fraud connected with or growing out of any
31 transactions contemplated by this chapter or Division 8
32 of the Health and Safety Code.

33 SEC. 145. Section 9702.5 of the Business and
34 Professions Code is amended to read:

35 9702.5. The program shall ascertain by written
36 examination that the applicant, and, in case of a
37 copartnership or corporation applicant for a cemetery
38 broker's license, that each officer, agent or member
39 thereof through whom it proposes to act as a cemetery
40 licensee has:



1 (a) Appropriate knowledge of the English language,
2 including reading, writing and spelling, and of
3 elementary arithmetic.

4 (b) A fair understanding of:

5 (1) Cemetery associations, cemetery corporations and
6 duties of directors.

7 (2) Plot ownership, deeds, certificates of ownership,
8 contracts of sale, liens and leases.

9 (3) Establishing, dedicating, maintaining, managing,
10 operating, improving and conducting a cemetery.

11 (4) The care, preservation and embellishment of
12 cemetery property.

13 (5) The care and preservation of endowment care
14 funds, trust funds, and the investment thereof.

15 (c) A general and fair understanding of the obligations
16 between principal and agent, of the principles of
17 cemetery brokerage practice and the business ethics
18 pertaining thereto, as well as of the provisions of this act
19 relating to cemetery brokerage.

20 SEC. 146. Section 9703 of the Business and Professions
21 Code is amended to read:

22 9703. The program may, in its discretion, waive the
23 examination of any applicant for a cemetery broker's
24 license who held an unrevoked or unsuspended cemetery
25 license on June 30th of the preceding fiscal year as an
26 individual broker, an officer of a corporation, or member
27 of a copartnership.

28 SEC. 147. Section 9704 of the Business and Professions
29 Code is amended to read:

30 9704. An application on the form prescribed by the
31 program for the renewal of any unrevoked and
32 unsuspended license filed before midnight of June 30th of
33 the year for which such unrevoked and unsuspended
34 license was issued, accompanied by the applicable
35 renewal fee, entitles the applicant to continue operating
36 under his or her existing license after its usual expiration
37 date, if not previously suspended or revoked, and until
38 such date as he or she is notified in writing that the
39 application has been granted or denied.

1 SEC. 148. Section 9705 of the Business and Professions
2 Code is amended to read:

3 9705. Upon receipt of the application and fee
4 specified in Section 9701, the program shall issue, without
5 examination, to any person who otherwise qualifies, a
6 temporary salesperson's license, good for a period of
7 three months from the date of issuance, irrespective of
8 the fact that the fiscal year may terminate within such
9 three months. An applicant shall not be entitled to more
10 than one temporary license without examination.

11 SEC. 149. Section 9709 of the Business and Professions
12 Code is amended to read:

13 9709. The cemetery licenses of both broker and
14 salesperson shall be prominently displayed in the office of
15 the broker.

16 The cemetery salesperson's license shall remain in the
17 possession of the licensed cemetery broker employer
18 until canceled or until the salesperson leaves the employ
19 of the broker.

20 SEC. 150. Section 9710 of the Business and Professions
21 Code is amended to read:

22 9710. Immediately upon the salesperson's withdrawal
23 from the employ of the broker, the broker shall return the
24 salesperson's license to the program for cancellation. A
25 license canceled but not suspended or revoked may be
26 reinstated within the fiscal year upon receipt of
27 application therefor and the fee for the reinstatement of
28 the license.

29 SEC. 151. Section 9711 of the Business and Professions
30 Code is amended to read:

31 9711. Every licensed cemetery broker shall have and
32 maintain a definite place of business in this state which
33 shall serve as his or her office for the transaction of
34 business.

35 No cemetery license authorizes the licensee to do
36 business except from the location for which the cemetery
37 license was issued.

38 Notice in writing shall be given the program of change
39 of business location of a cemetery broker, whereupon the
40 program shall issue a new cemetery license for the

1 unexpired period. The change or abandonment of
2 business location without notification to the program
3 shall automatically cancel the license theretofore issued.

4 SEC. 152. Section 9712 of the Business and Professions
5 Code is amended to read:

6 9712. If the applicant for a cemetery broker's license
7 maintains more than one place of business within the
8 state he or she shall apply for and procure an additional
9 license for each branch office so maintained. Every such
10 application shall state the name of the person and the
11 location of the place of business for which such license is
12 desired.

13 The program may determine whether or not a broker
14 is doing a cemetery brokerage business at or from any
15 particular location which requires him or her to have a
16 branch office license.

17 SEC. 153. Section 9713 of the Business and Professions
18 Code is amended to read:

19 9713. Each cemetery broker shall erect and maintain
20 a sign in a conspicuous place on the premises to indicate
21 that he or she is a licensed cemetery broker and his or her
22 name shall be clearly shown thereon. The size and place
23 of the sign shall conform to regulations that may be
24 adopted by the program.

25 SEC. 154. Section 9714 of the Business and Professions
26 Code is amended to read:

27 9714. For a violation of any of the provisions of
28 Sections 9709, 9710, 9711 and 9713, the program may
29 temporarily suspend or permanently revoke the license
30 of the cemetery licensee in accordance with the
31 provisions of this act relating to disciplinary proceedings.

32 SEC. 155. Section 9715 of the Business and Professions
33 Code is amended to read:

34 9715. Application for a certificate of authority shall be
35 made in writing on the form prescribed by the program
36 and filed at the principal office of the program. The
37 application shall be accompanied by the fee provided for
38 in this act and shall show that the cemetery authority
39 owns or is actively operating a cemetery in this state
40 which is subject to the provisions of the Cemetery Act or

1 that the applicant is in a position to commence operating
2 a cemetery.

3 SEC. 156. Section 9716 of the Business and Professions
4 Code is amended to read:

5 9716. The program may require such proof as it
6 deems advisable concerning the compliance by such
7 applicant to all the laws, rules, regulations, ordinances
8 and orders applicable.

9 SEC. 157. Section 9717 of the Business and Professions
10 Code is amended to read:

11 9717. (a) The program shall adopt, and may from
12 time to time amend, rules and regulations prescribing
13 standards of knowledge and experience and financial
14 responsibility for applicants for certificates of authority.
15 In reviewing an application for a certificate of authority,
16 the program may consider acts of incorporators, officers,
17 directors, and stockholders of the applicant, which shall
18 constitute grounds for the denial of a certificate of
19 authority under Division 1.5 (commencing with Section
20 475).

21 (b) Upon receipt of an application for a certificate of
22 authority, the program may cause an investigation to be
23 made of the physical status, plans, specifications and
24 financing of the proposed cemetery, and any other
25 qualifications required of the applicant under this act,
26 and for this purpose may subpoena witnesses, administer
27 oaths, and take testimony.

28 At the time of the filing of the application required by
29 this section, the applicant shall pay to the Cemetery Fund
30 the sum fixed by the program at not in excess of four
31 hundred dollars (\$400) to defray the expenses of
32 investigation. In the event the sum shall be insufficient to
33 defray all of the expenses, the applicant shall within five
34 days after request therefor deposit an additional sum
35 sufficient to defray such expenses, provided that the total
36 sum shall not exceed the sum of nine hundred dollars
37 (\$900).

38 SEC. 158. Section 9718 of the Business and Professions
39 Code is amended to read:

1 9718. The program may, in accordance with its rules
2 and regulations, authorize interments in cemeteries for
3 which there is no currently valid certificate of authority
4 outstanding if the program finds that rights to interment
5 therein will otherwise be impaired. However, nothing in
6 this section authorizes sales of lots, vaults, or niches by
7 cemeteries for which there is no currently valid
8 certificate of authority. Interments permitted under this
9 section shall be conducted by persons authorized by the
10 program in accordance with its regulations, and Section
11 9768 shall not be applicable to such interments.

12 The program or its representative shall be entitled to
13 inspect and copy any cemetery records necessary to the
14 performance of interments under this section, and any
15 person having custody of those records shall permit
16 inspection and copying thereof for that purpose. The
17 program may apply to the superior court for the county
18 in which the cemetery is located for an order temporarily
19 transferring custody of cemetery records to it for
20 purposes of this section.

21 SEC. 159. Section 9719 of the Business and Professions
22 Code is amended to read:

23 9719. The program shall inspect the books, records,
24 and premises of any crematory licensed under this
25 chapter or any certificate of authority holder operating a
26 crematory. In making those inspections, the program
27 shall have access to all books and records, the crematory
28 building, the cremation chambers or furnaces, and the
29 storage areas for human remains before and after
30 cremation, during regular office hours or the hours the
31 crematory is in operation. No prior notification of the
32 inspection is required to be given to the certificate of
33 authority holder or the crematory licensee. If any
34 certificate of authority holder or any crematory licensee
35 fails to allow that inspection or any part thereof, it shall
36 be grounds for the suspension or revocation of a license
37 or other disciplinary action against the licensee. In the
38 case of a certificate of authority holder, the suspension,
39 revocation, or other disciplinary action may be limited to
40 the operation of the crematory. All proceedings under

1 this section shall be conducted in accordance with the
2 provisions of this chapter relating to disciplinary
3 proceedings.

4 SEC. 160. Section 9720 of the Business and Professions
5 Code is amended to read:

6 9720. The program shall annually conduct a minimum
7 of one unannounced inspection of each licensed
8 crematory.

9 SEC. 161. Section 9726 of the Business and Professions
10 Code is amended to read:

11 9726. The program may, upon its own motion, and
12 shall, upon the verified complaint in writing of any
13 person, investigate the actions of any person engaged in
14 the business or acting in the capacity of a cemetery
15 licensee, and may temporarily suspend or permanently
16 revoke a license at any time where the licensee, within
17 the immediately preceding three years, while a cemetery
18 licensee in performing or attempting to perform any of
19 the acts specified in this act, has been guilty of any of the
20 following:

21 (a) Making any substantial misrepresentation.

22 (b) Making any false statement of a character likely to
23 influence or persuade.

24 (c) A continued and flagrant course of
25 misrepresentation or making of false promises through
26 cemetery agents or salespersons.

27 (d) Acting for more than one party in a transaction
28 without the knowledge or consent of all parties thereto.

29 (e) Commingling the money or other property of his
30 or her principal with his or her own.

31 (f) The practice of claiming or demanding a fee,
32 compensation or commission under any exclusive
33 agreement authorizing or employing a licensee to sell,
34 buy or exchange cemetery property for compensation or
35 commission where such agreement does not contain a
36 definite, specified date of final and complete termination.

37 (g) The claiming or taking by a licensee of any secret
38 or undisclosed amount of compensation, commission or
39 profit or the failure of a licensee to reveal to the employer
40 of such licensee the full amount of such licensee's

1 compensation, commission or profit under any
2 agreement authorizing or employing such licensee to sell,
3 buy or exchange cemetery property for compensation or
4 commission prior to or coincident with the signing of such
5 agreement evidencing the meeting of the minds of the
6 contracting parties, regardless of the form of such
7 agreement, whether evidenced by documents in an
8 escrow or by any other or different procedure.

9 (h) The use by a licensee of any provision allowing the
10 licensee an option to purchase in an agreement
11 authorizing or employing such licensee to sell, buy, or
12 exchange cemetery property for compensation or
13 commission, except when such licensee prior to or
14 coincident with election to exercise such option to
15 purchase reveals in writing to the employer the full
16 amount of licensee's profit and obtains the written
17 consent of the employer approving the amount of such
18 profit.

19 (i) Any other conduct, whether of the same or a
20 different character than specified in this section, which
21 constitutes fraud or dishonest dealing.

22 The misrepresentations and false statements
23 mentioned in this section include also misrepresentation
24 and false statements as to other property than that which
25 the cemetery licensee may be selling or attempting to
26 sell.

27 SEC. 162. Section 9727 of the Business and Professions
28 Code is amended to read:

29 9727. The program may suspend or revoke the license
30 of any cemetery licensee who, within three years
31 immediately preceding has done any of the following:

32 (a) Been convicted of a crime substantially related to
33 the qualifications, functions and duties of such licensee.
34 The record of conviction, or a certified copy thereof, shall
35 be conclusive evidence of such conviction.

36 (b) Knowingly authorized, directed, connived at or
37 aided in the publication, advertisement, distribution, or
38 circulation of any material false statement or
39 representation concerning his or her business or any
40 cemetery property offered for sale.

1 (c) Willfully disregarded or violated any of the
2 provisions of this act relating to cemetery brokerage.

3 (d) Acted or conducted himself or herself in a manner
4 which would have warranted the denial of his or her
5 application for a cemetery license, or for a renewal
6 thereof.

7 SEC. 163. Section 9727.1 of the Business and
8 Professions Code is amended to read:

9 9727.1. The program may suspend or revoke the
10 license of any cemetery licensee who procures a
11 cemetery license, for himself or herself or any
12 salesperson, by fraud, misrepresentation or deceit. An
13 action to suspend or revoke a license for a violation of the
14 provisions of this section shall be commenced within
15 three years after the discovery by the program of that
16 violation.

17 SEC. 164. Section 9727.2 of the Business and
18 Professions Code is amended to read:

19 9727.2. A plea or verdict of guilty or a conviction
20 following a plea of nolo contendere is deemed to be a
21 conviction within the meaning of this article. The
22 program may order the license suspended or revoked, or
23 may decline to issue a license, when the time for appeal
24 has elapsed, or the judgment of conviction has been
25 affirmed on appeal or when an order granting probation
26 is made suspending the imposition of sentence,
27 irrespective of a subsequent order under the provisions
28 of Section 1203.4 of the Penal Code allowing such person
29 to withdraw his or her plea of guilty and to enter a plea
30 of not guilty, or setting aside the verdict of guilty, or
31 dismissing the accusation, information or indictment.

32 SEC. 165. Section 9728 of the Business and Professions
33 Code is amended to read:

34 9728. When any salesperson is discharged by his or her
35 employer for a violation of any of the provisions of this
36 article prescribing a ground for disciplinary action, a
37 verified written statement of the facts with reference
38 thereto shall be filed forthwith with the program by the
39 employer and, if the employer fails to notify the program
40 as required by this section, the program may temporarily

1 suspend or permanently revoke the cemetery license of
2 the employer in accordance with the provisions of this
3 act.

4 SEC. 166. Section 9729 of the Business and Professions
5 Code is amended to read:

6 9729. The program may deny, suspend or revoke the
7 cemetery license of a corporation as to any officer or
8 agent acting under its cemetery license, and the
9 cemetery license of a copartnership as to any member
10 acting under its cemetery license, without revoking the
11 cemetery license of the corporation or of the
12 copartnership.

13 SEC. 167. Section 9730 of the Business and Professions
14 Code is amended to read:

15 9730. The fees for cemetery licenses at all periods of
16 the fiscal year is the same as provided in this article. All
17 cemetery license fees are payable in advance of issuing
18 the licenses and at the time of filing the application.
19 Except a temporary salesperson's license, for which other
20 provision is made, all licenses shall be issued for the fiscal
21 year and shall expire on June 30th of each fiscal year at
22 midnight.

23 SEC. 168. Section 9731 of the Business and Professions
24 Code is amended to read:

25 9731. If a person fails to apply for a renewal of his or
26 her license prior to midnight of June 30th of the year for
27 which the license was issued, no renewal license shall be
28 issued to him or her except upon payment of the renewal
29 fee for the license, plus 50 percent of the renewal fee, but
30 not more than the renewal fee plus twenty-five dollars
31 (\$25).

32 No person who fails to renew his or her license within
33 one year of the expiration date can engage in any of the
34 activities authorized by such a license unless he or she first
35 files the application required for an original license, pays
36 the original license fee, and otherwise complies with all
37 of the provisions of this act pertaining to the issuance of
38 an original license.

39 SEC. 169. Section 9735 of the Business and Professions
40 Code is amended to read:

1 9735. An original cemetery salesperson's license is a
2 cemetery license issued to a person who did not have a
3 cemetery salesperson's or a broker's license either
4 individually or as an officer of a corporation, or as a
5 member of a copartnership, on June 30th of the fiscal year
6 previous to the fiscal year for which the salesperson's
7 license is issued.

8 SEC. 170. Section 9736 of the Business and Professions
9 Code is amended to read:

10 9736. A renewal cemetery salesperson's license is a
11 cemetery license issued to a person who had a cemetery
12 salesperson's or a broker's license either individually or as
13 an officer of a corporation, or as a member of a
14 copartnership, on June 30th of the fiscal year previous to
15 the fiscal year for which the salesperson's license is issued.

16 SEC. 171. Section 9737 of the Business and Professions
17 Code is amended to read:

18 9737. The proceedings under this article shall be
19 conducted in accordance with Chapter 5 (commencing
20 with Section 11500) of Part 1 of Division 2 of Title 2 of the
21 Government Code, and the program shall have all the
22 powers granted therein.

23 SEC. 172. Section 9740 of the Business and Professions
24 Code is amended to read:

25 9740. No person shall dispose of or offer to dispose of
26 any cremated human remains unless registered as a
27 cremated remains disposer by the program. This article
28 shall not apply to any person, partnership, or corporation
29 holding a certificate of authority as a cemetery,
30 crematory license, cemetery broker's license, cemetery
31 salesperson's license, or funeral director's license, nor
32 shall this article apply to any person having the right to
33 control the disposition of the cremated remains of any
34 person or that person's designee if the person does not
35 dispose of or offer to dispose of more than 10 cremated
36 human remains within any calendar year.

37 SEC. 173. Section 9741 of the Business and Professions
38 Code is amended to read:

39 9741. Registration shall be on the form prescribed by
40 the program and shall include, but not be limited to, the

1 full name of the registrant, business and residence
2 addresses, description and identification of aircraft or
3 boats which may be used in dispensing cremated human
4 remains, and the area to be served. Each registration
5 application shall be accompanied by the cremated
6 remains disposer fee.

7 *SEC. 173.5. Section 9741 of the Business and*
8 *Professions Code is amended to read:*

9 9741. (a) Registration shall be on the form
10 prescribed by the ~~board~~ program and shall include, but
11 not be limited to, the full name of the registrant, business
12 and residence addresses, description and identification of
13 aircraft or boats which may be used in dispensing
14 cremated human remains, and the area to be served.
15 Each registration application shall be accompanied by
16 the cremated remains disposer fee.

17 (b) *Every registered cremated remains disposer who*
18 *dispenses human remains by air shall post a copy of his or*
19 *her current pilot's license, and the address of the*
20 *cremated remains storage area at his or her place of*
21 *business. Every registered cremated remains disposer*
22 *who dispenses human remains by boat shall post a copy*
23 *of his or her current boating license and the address of the*
24 *cremated remains storage area at his or her place of*
25 *business.*

26 SEC. 174. Section 9742 of the Business and Professions
27 Code is amended to read:

28 9742. All aircraft used for the scattering of cremated
29 human remains shall be validly certified by the Federal
30 Aviation Administration. All boats or vessels used for the
31 scattering of cremated human remains shall be registered
32 with the Department of Motor Vehicles or documented
33 by a federal agency, as appropriate. The certification or
34 registration shall be available for inspection by the
35 program.

36 ~~SEC. 175. Section 9745 of the Business and Professions~~
37 ~~Code is amended to read:~~

38 ~~9745. Each cremated remains disposer shall file an~~
39 ~~annual report on a form prescribed by the program. The~~
40 ~~report shall include, but not be limited to, the number of~~

~~1 cases handled and the area of scattering. The report shall
2 cover the fiscal year ending on June 30th and shall be filed
3 with the program no later than September 30th of each
4 year.~~

5 SEC. 176. Section 9746 of the Business and Professions
6 Code is amended to read:

7 9746. All cremated remains disposer registrations
8 shall expire at midnight on September 30th of each year.

9 A person desiring to renew his or her registration shall file
10 an application for renewal on a form prescribed by the
11 program accompanied by the required fee. The program
12 shall not renew the registration of any person who has not
13 filed the required annual report until he or she has filed
14 a complete annual report with the department.

15 SEC. 177. Section 9749.5 of the Business and
16 Professions Code is amended to read:

17 9749.5. A cremated remains disposer shall be subject
18 to and shall be disciplined by the program in accordance
19 with Article 6 (commencing with Section 9725). Any
20 violation of this article shall also be grounds for
21 disciplinary action.

22 SEC. 178. Section 9751 of the Business and Professions
23 Code is amended to read:

24 9751. The original cemetery broker's license fee shall
25 be fixed by the program at not more than four hundred
26 dollars (\$400).

27 SEC. 179. Section 9752 of the Business and Professions
28 Code is amended to read:

29 9752. The original cemetery broker's license fee is
30 payable at the time of the filing of an application for an
31 original cemetery broker's license.

32 If the applicant fails the required written examination,
33 he or she may be permitted to take another examination
34 upon the filing of an application for reexamination and
35 the payment of a reexamination fee. This reexamination
36 fee shall be fixed by the program at not more than one
37 hundred dollars (\$100).

38 No part of any original cemetery broker's license fee or
39 reexamination fee is refundable. It is deemed earned

1 upon receipt by the program, whether the accompanying
2 application for a license is complete or incomplete.

3 SEC. 180. Section 9753 of the Business and Professions
4 Code is amended to read:

5 9753. The annual renewal fee for a cemetery broker's
6 license shall be fixed by the program at not more than
7 three hundred dollars (\$300).

8 SEC. 181. Section 9754 of the Business and Professions
9 Code is amended to read:

10 9754. If the licensee is a cemetery brokerage
11 corporation, the license issued to it entitles one officer
12 only, on behalf of the corporation, to engage in the
13 business of a cemetery broker without the payment of a
14 further fee, that officer to be designated in the
15 application of the corporation for a license. For each
16 other officer of a licensed cemetery brokerage
17 corporation, through whom it engages in the business of
18 a cemetery broker, the annual renewal fee, in addition to
19 the fee paid by the corporation, shall be fixed by the
20 department at not more than one hundred dollars (\$100).

21 SEC. 182. Section 9755 of the Business and Professions
22 Code is amended to read:

23 9755. If the licensee is a cemetery brokerage
24 copartnership, the license issued to it entitles one
25 member only of the copartnership to engage on behalf of
26 the copartnership in the business of a cemetery broker,
27 which member shall be designated in the application of
28 the copartnership for a license. For each other member
29 of the copartnership who on behalf of the copartnership
30 engages in the business of a cemetery broker, the annual
31 renewal fee, in addition to the fee paid by the
32 copartnership, shall be fixed by the program at not more
33 than one hundred dollars (\$100).

34 SEC. 183. Section 9756 of the Business and Professions
35 Code is amended to read:

36 9756. The cemetery salesperson's license fee shall be
37 fixed by the program at not more than thirty dollars
38 (\$30).

39 SEC. 184. Section 9758 of the Business and Professions
40 Code is amended to read:

1 9758. No part of any original or temporary cemetery
2 salesperson's license fee is refundable. It is deemed
3 earned upon receipt by the program, whether the
4 accompanying application for a license is complete or
5 incomplete.

6 SEC. 185. Section 9759 of the Business and Professions
7 Code is amended to read:

8 9759. The annual renewal fee for a cemetery
9 salesperson's license shall be fixed by the program at not
10 more than twenty-five dollars (\$25).

11 SEC. 186. Section 9760 of the Business and Professions
12 Code is amended to read:

13 9760. For a branch office broker's license, the fee shall
14 be fixed by the program at not more than one hundred
15 dollars (\$100).

16 SEC. 187. Section 9761 of the Business and Professions
17 Code is amended to read:

18 9761. For change of name or of address of licensee on
19 the records of the program, the fee shall be fixed by the
20 program at not more than twenty-five dollars (\$25).

21 SEC. 188. Section 9762 of the Business and Professions
22 Code is amended to read:

23 9762. For transfer of a salesperson's license on change
24 of employer, the fee shall be fixed by the program at not
25 more than twenty-five dollars (\$25).

26 SEC. 189. Section 9763 of the Business and Professions
27 Code is amended to read:

28 9763. For a duplicate license the fee shall be fixed by
29 the program at not more than twenty-five dollars (\$25).

30 SEC. 190. Section 9764 of the Business and Professions
31 Code is amended to read:

32 9764. For reinstatement of a license within the fiscal
33 year, the fee shall be fixed by the program at not more
34 than twenty-five dollars (\$25).

35 As used in this section, "reinstatement of a license"
36 means the reissuance of a canceled cemetery broker's
37 license, or a cemetery salesperson's license which was
38 canceled during the year for which it was issued upon the
39 salesperson's withdrawal from the employ of a cemetery
40 broker.

1 SEC. 191. Section 9765 of the Business and Professions
2 Code is amended to read:

3 9765. Every cemetery authority operating a
4 cemetery shall pay an annual regulatory charge for each
5 cemetery to be fixed by the program at not more than
6 four hundred dollars (\$400). In addition to an annual
7 regulatory charge for each cemetery, an additional
8 quarterly charge of not more than eight dollars and fifty
9 cents (\$8.50) for each burial, entombment, or inurnment,
10 and not more than eight dollars and fifty cents (\$8.50) for
11 each cremation made during the preceding quarter shall
12 be paid to the department and these charges shall be
13 deposited in the Cemetery Fund. If the cemetery
14 authority performed the cremation and either the burial,
15 entombment, or inurnment, the total of all additional
16 charges shall be not more than eight dollars and fifty cents
17 (\$8.50).

18 Notwithstanding any other provision of law, including
19 any provision contained in the Budget Act of 1996, this
20 section shall remain in effect until the loans authorized by
21 Chapter 38, Statutes of 1996, and by Chapter 162, Statutes
22 of 1996, are repaid, with interest at the rate accruing to
23 moneys in the Pooled Money Investment Account, but no
24 later than April 1, 2003, pursuant to a loan repayment plan
25 approved by the Department of Finance.

26 SEC. 192. Section 9766 of the Business and Professions
27 Code is amended to read:

28 9766. Upon payment of the charges set forth, the
29 program shall issue a renewal of the certificate of
30 authority to the cemetery authority.

31 SEC. 193. Section 9767 of the Business and Professions
32 Code is amended to read:

33 9767. Failure to pay the charges set forth by Section
34 9765 of this code prior to February 1st for each year shall
35 be cause for suspension of the certificate of authority. The
36 certificate may be restored upon payment to the program
37 of the prescribed charges.

38 SEC. 194. Section 9769 of the Business and Professions
39 Code is amended to read:

1 9769. All moneys received by the program under the
2 provisions of this chapter shall be accounted for and
3 reported by detailed statements furnished by the
4 program to the Controller at least once a month, and at
5 the same time these moneys shall be remitted to the
6 Treasurer, and, upon order of the Controller, shall be
7 deposited in the Cemetery Fund in the State Treasury,
8 which fund is hereby created.

9 SEC. 195. Section 9780 of the Business and Professions
10 Code is amended to read:

11 9780. A crematory established, operated, or
12 maintained, other than by a licensed cemetery authority,
13 may be operated by a corporation, partnership, or natural
14 person, provided that a valid crematory license shall have
15 been issued by the program.

16 SEC. 196. Section 9781 of the Business and Professions
17 Code is amended to read:

18 9781. Application for a crematory license shall be
19 made in writing on the form prescribed by the program
20 and filed at the principal office of the program. The
21 application shall be accompanied by the fee provided for
22 in this article and shall show that the applicant owns or is
23 actively operating a crematory in this state or that the
24 applicant is in a position to commence operating such a
25 crematory.

26 SEC. 197. Section 9782 of the Business and Professions
27 Code is amended to read:

28 9782. The program may require such proof as it
29 deems advisable concerning the compliance by such
30 applicant with all the laws, rules, regulations, ordinances,
31 and orders applicable to the applicant and shall not issue
32 such crematory license until it has satisfied itself that the
33 public interest will be served by such applicant.

34 SEC. 198. Section 9783 of the Business and Professions
35 Code is amended to read:

36 9783. (a) The program shall adopt, and may from
37 time to time amend, rules and regulations prescribing
38 standards of knowledge and experience and financial
39 responsibility for applicants for a crematory license. In
40 reviewing an application for a crematory license, the

1 department may consider acts of the applicant, including
2 acts of incorporators, officers, directors, and stockholders
3 of the applicant, which shall constitute grounds for the
4 denial of a crematory license under Division 1.5
5 (commencing with Section 475).

6 (b) Upon receipt of an application for a crematory
7 license, the program may cause an investigation to be
8 made of the physical status, plans, specifications, and
9 financing of the proposed crematory, the character of the
10 applicant, including, if applicable, its officers, directors,
11 shareholders, or members, and any other qualifications
12 required of the applicant under this article, and for this
13 purpose may subpoena witnesses, administer oaths, and
14 take testimony.

15 At the time of the filing of the application required by
16 this article, the applicant shall pay to the Cemetery Fund
17 the sum fixed by the program at not in excess of four
18 hundred dollars (\$400) to defray the expenses of
19 investigation. In the event the sum shall be insufficient to
20 defray all of the expenses, the applicant shall within five
21 days after request therefor deposit an additional sum
22 sufficient to defray such expenses, provided that the total
23 sum shall not exceed the sum of nine hundred dollars
24 (\$900).

25 SEC. 199. Section 9784 of the Business and Professions
26 Code is amended to read:

27 9784. No crematory licensee under this article shall
28 conduct any cremations:

29 (a) Unless the licensee has a written contract with the
30 person or persons entitled to custody of the remains
31 clearly stating the location, manner, and time of
32 disposition to be made of the remains, agreeing to pay the
33 regular fees of the licensee for cremation, disposition, and
34 other services rendered, and any other contractual
35 provisions as may be required by the program.

36 (b) Of any remains more than 24 hours after delivery
37 of the remains, unless the remains have been preserved
38 in the interim by refrigeration or embalming.

39 (c) Unless the licensee has a contractual relationship
40 with a licensed cemetery authority for final disposition of

1 cremated human remains by burial, entombment or
2 inurnment of any and all remains which are not lawfully
3 disposed of or which are not called for or accepted by the
4 person or persons entitled to the custody and control of
5 the disposition thereof within 90 days of the date of death.

6 SEC. 200. Section 9785 of the Business and Professions
7 Code is amended to read:

8 9785. Each crematory licensee shall keep such
9 records as may be required by the program to assure
10 compliance with all laws relating to the disposition of
11 cremated human remains and shall file annually with the
12 program, a report in the form prescribed by the program,
13 describing the operations of the licensee, including the
14 number of cremations made, the disposition thereof, and
15 any other information as the program may, from time to
16 time, require.

17 SEC. 201. Section 9786 of the Business and Professions
18 Code is amended to read:

19 9786. Every crematory licensee operating a
20 crematory pursuant to a license issued in compliance with
21 this article shall pay an annual regulatory charge for each
22 crematory, to be fixed by the program at not more than
23 four hundred dollars (\$400). In addition to an annual
24 regulatory charge for each crematory, every licensee
25 operating a crematory pursuant to a license issued
26 pursuant to this article shall pay an additional charge of
27 not more than eight dollars and fifty cents (\$8.50) per
28 cremation made during the preceding quarter, which
29 charges shall be deposited in the Cemetery Fund.

30 Notwithstanding any other provision of law, including
31 any provision contained in the Budget Act of 1996, this
32 section shall remain in effect until the loans authorized by
33 Chapter 38, Statutes of 1996, and by Chapter 162, Statutes
34 of 1996, are repaid, with interest at the rate accruing to
35 moneys in the Pooled Money Investment Account, but no
36 later than April 1, 2003, pursuant to a loan repayment plan
37 approved by the Department of Finance.

38 SEC. 202. Section 9787 of the Business and Professions
39 Code is amended to read:

1 9787. Each crematory for which a crematory license
2 is required shall be operated under the supervision of a
3 manager qualified as such in accordance with rules
4 adopted by the program. Each manager shall be required
5 to successfully pass a written examination evidencing an
6 understanding of the applicable provisions of this code
7 and of the Health and Safety Code of this state.

8 SEC. 203. Section 9789 of the Business and Professions
9 Code is amended to read:

10 9789. A crematory licensee shall be subject to and
11 shall be disciplined by the program in accordance with
12 Article 6 (commencing with Section 9725).

13 SEC. 204. Section 9880.2 of the Business and
14 Professions Code is amended to read:

15 9880.2. The following persons are exempt from the
16 requirement of registration:

17 (a) An employee of an automotive repair dealer if the
18 employee repairs motor vehicles only as an employee.

19 (b) A person who solely engages in the business of
20 repairing the motor vehicles of one or more commercial,
21 industrial, or governmental establishments.

22 (c) A person who is registered pursuant to Chapter 20
23 (commencing with Section 9800) and whose work is
24 limited to the installation or replacement of a motor
25 vehicle radio, antenna, audio recorder, audio playback
26 equipment, or burglar alarm.

27 (d) A person whose primary business is the wholesale
28 supply of new or rebuilt automotive parts who solely
29 engages in the remachining of individual automotive
30 parts without compensation for warranty adjustments to
31 those parts and who does not engage in repairing or
32 diagnosing malfunctions of motor vehicles or
33 motorcycles. "Primary business" means the business that
34 accounts for the majority of the company's gross sales.
35 "Wholesale supply" means the sale, by a seller who
36 possesses a California Resale Permit, of automotive parts
37 to a retailer or jobber for the purpose of resale. However,
38 a person described in this subdivision, prior to
39 commencing work, shall do both of the following:

1 (1) Provide a notice containing the bureau's toll-free
2 telephone number to the customer that the person is not
3 regulated by the bureau.

4 (2) Provide a written description of the remachining
5 services to be performed to the customer.

6 SEC. 205. Section 9884 of the Business and Professions
7 Code is amended to read:

8 9884. (a) An automotive repair dealer shall pay the
9 fee required by this chapter for each place of business
10 operated by the dealer in this state and shall register with
11 the director upon forms prescribed by the director. The
12 forms shall contain sufficient information to identify the
13 automotive repair dealer, including name, address of
14 each location, a statement by the dealer that each location
15 is in an area that, pursuant to local zoning ordinances,
16 permits the operation of a facility for the repair of motor
17 vehicles, the dealer's retail seller's permit number, if a
18 permit is required under the Sales and Use Tax Law (Part
19 1 (commencing with Section 6001), Division 2, Revenue
20 and Taxation Code), and other identifying data that are
21 prescribed by the director. If the business is to be carried
22 on under a fictitious name, the fictitious name shall be
23 stated. To the extent prescribed by the director, an
24 automotive repair dealer shall identify the owners,
25 directors, officers, partners, managers and any other
26 persons who directly or indirectly control or conduct the
27 business. The forms shall include a statement signed by
28 the dealer under penalty of perjury that the information
29 provided is true.

30 (b) A state agency is not authorized or required by this
31 section to enforce a city, county, regional, air pollution
32 control district, or air quality management district rule or
33 regulation regarding the site or operation of a facility that
34 repairs motor vehicles.

35 SEC. 206. Section 9884.3 of the Business and
36 Professions Code is amended to read:

37 9884.3. Every registration shall cease to be valid one
38 year from the last day of the month in which registration
39 was issued unless the automotive repair dealer has paid
40 the renewal fee required by this chapter.

1 SEC. 206.5. Section 9884.5 is added to the Business and
2 Professions Code, to read:

3 9884.5. A registration that is not renewed within three
4 years following its expiration shall not be renewed,
5 restored, or reinstated thereafter, and the delinquent
6 registration shall be canceled immediately upon
7 expiration of the three-year period.

8 An automotive repair dealer whose registration has
9 been canceled by operation of this section shall obtain a
10 new registration only if he or she again meets the
11 requirements set forth in this chapter relating to
12 registration, is not subject to denial under Section 480,
13 and pays the applicable fees.

14 An expired registration may be renewed at any time
15 within three years after its expiration upon the filing of an
16 application for renewal on a form prescribed by the
17 bureau and the payment of all accrued renewal and
18 delinquency fees. Renewal under this section shall be
19 effective on the date on which the application is filed and
20 all renewal and delinquency fees are paid. If so renewed,
21 the registration shall continue in effect through the
22 expiration date of the current registration year as
23 provided in Section 9884.3, at which time the registration
24 shall be subject to renewal.

25 SEC. 207. Section 9886.2 of the Business and
26 Professions Code is amended to read:

27 9886.2. The money in the Vehicle Inspection and
28 Repair Fund necessary for the administration of this
29 chapter and Chapter 5 (commencing with Section 44000)
30 of Part 5 of Division 26 of the Health and Safety Code is
31 available to the department, when appropriated for those
32 purposes.

33 SEC. 208. Article 10 (commencing with Section
34 9889.30) of Chapter 20.3 of Division 3 of the Business and
35 Professions Code is repealed.

36 SEC. 209. Section 9889.8 of the Business and
37 Professions Code is amended to read:

38 9889.8. All accusations against licensees shall be filed
39 within three years after the act or omission alleged as the
40 ground for disciplinary action, except that with respect to

1 an accusation alleging a violation of subdivision (e) of
2 Section 9889.3, the accusation may be filed within two
3 years after the discovery by the bureau of the alleged facts
4 constituting the fraud or misrepresentation prohibited by
5 such section.

6 SEC. 210. Section 18740 of the Business and
7 Professions Code is repealed.

8 SEC. 211. Section 15633.5 of the Welfare and
9 Institutions Code is amended to read:

10 15633.5. (a) Information relevant to the incident of
11 elder or dependent adult abuse may be given to an
12 investigator from an adult protective services agency, a
13 local law enforcement agency, or the Bureau of Medi-Cal
14 Fraud or investigators of the Department of Consumer
15 Affairs, Division of Investigation who are investigating
16 the known or suspected case of elder or dependent adult
17 abuse.

18 (b) The identity of all persons who report under this
19 chapter shall be confidential and disclosed only among
20 adult protective services agencies, long-term care
21 ombudsman programs, licensing agencies, local law
22 enforcement agencies, the bureau, and the Division of
23 Investigation to counsel representing an adult protective
24 services agency, long-term care ombudsman program,
25 licensing agency, or a local law enforcement agency, by
26 the bureau to the district attorney in a criminal
27 prosecution, when persons reporting waive
28 confidentiality, or by court order.

29 (c) Notwithstanding subdivisions (a) and (b), any
30 person reporting pursuant to Section 15631 shall not be
31 required to include his or her name in the report.

32 *SEC. 212. Section 65.5 of this bill incorporates*
33 *amendments to Section 7685.2 of the Business and*
34 *Professions Code proposed by both this bill and AB 1705.*
35 *It shall only become operative if (1) both bills are enacted*
36 *and become effective on January 1, 1999, (2) each bill*
37 *amends Section 7685.2 of the Business and Professions*
38 *Code, and (3) this bill is enacted after AB 1705, in which*
39 *case Section 65 of this bill shall not become operative.*

1 *SEC. 213. Section 173.5 of this bill incorporates*
2 *amendments to Section 9741 of the Business and*
3 *Professions Code proposed by both this bill and AB 1705.*
4 *It shall only become operative if (1) both bills are enacted*
5 *and become effective on January 1, 1999, (2) each bill*
6 *amends Section 9741 of the Business and Professions*
7 *Code, and (3) this bill is enacted after AB 1705, in which*
8 *case Section 173 of this bill shall not become operative.*

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